

No. 2229 5

United States
Circuit Court of Appeals
For the Ninth Circuit

R. F. KNIGHT, TRUSTEE IN BANKRUPTCY OF
JAMES P. HANLEY, a Bankrupt,
Appellant,

vs.

JAMES M. HANLEY,
Appellee.

Transcript of Record

Upon Appeal from the United States District Court
for the Eastern District of Washington
Northern Division

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R. F. KNIGHT, TRUSTEE IN BANKRUPTCY OF
JAMES P. HANLEY, a Bankrupt,

Appellant,

vs.

JAMES M. HANLEY,

Defendant.

ADDRESSES AND NAMES OF SOLICITORS
OF RECORD:

CHARLES P. LUND, Esquire, Old National Bank
Building, Spokane, Washington,

Solocator for Appellant.

L. J. BIRDSEYE, Esquire, The Ziegler Block, Spokane,
Washington,

Solicitor for Appellee.

No. 964.

*In the District Court of the United States for the Eastern
District of Washington.*

R. F. KNIGHT, TRUSTEE IN BANKRUPTCY OF
JAMES P. HANLEY, a Bankrupt,

Complainant,

vs.

JAMES M. HANLEY,

Defendant.

COMPLAINT.

*To the Honorable Judge of the United States District
Court for the Eastern District of Washington:*

R. F. Knight, as Trustee in Bankruptcy of James P. Hanley, a bankrupt, brings his bill of complaint against James M. Hanley and thereupon your orator complains and says:

I.

On August 25th, 1910, James P. Hanley filed his petition in bankruptcy in the United States District Court for the Eastern District of Washington, and on August 26th was adjudicated a bankrupt.

II.

On September 7th, 1910, the complainant was appointed trustee of said bankrupt, and thereafter qualified and is now the trustee of said bankrupt.

III.

On May 2d, 1910, said bankrupt, James P. Hanley, and his wife, Katherine Hanley, were owners as community property under the laws of the State of Washington, of Lots Five (5), Six (6) and Sixteen (16) and Eighteen (18), in Block Seven (7) of Northeast Addition to Ross Park, an addition to Spokane, Spokane County, Washington, and on said date executed and delivered to the defendant James M. Hanley, a deed of conveyance of said real estate, which said deed was thereafter filed for record in the Auditor's office of Spokane County, Washington, and is recorded in Book 264 at page 604 of the Records of Deeds in said office, and said defendant, by virtue of said conveyance, claims to be the owner in fee of said real estate.

IV.

Said conveyance was so executed and delivered by said James P. Hanley and Katherine Hanley, his wife, to the defendant, without any present consideration, or any consideration therefor whatsoever from said defendant, or at all, and at the time of the execution and delivery of the said deed, said James P. Hanley and Katherine

Hanley, his wife, were insolvent, and said conveyance was so made to the defendant, who is a son of the said James P. Hanley and his wife, Katherine Hanley, the grantors in said deed of conveyance, for the purpose and with the intent to hinder, delay and defraud the creditors of said bankrupt.

V.

The assets of said bankrupt listed in his schedule in said bankruptcy proceeding, and the assets of said bankrupt known to said trustee and which have come into his possession, are insufficient to pay the claims of creditors which have been filed with and approved by the referee in bankruptcy of said Court, and with the real estate covered by said conveyance will be insufficient to pay the claims of creditors of said bankrupt whose claims have been so filed and allowed.

To the end, therefore, that your orator may have relief which he can only obtain in a court of equity, and that said defendant may answer the premises (but not on oath or affirmation, the benefit whereof is hereby waived by your orator) he now prays that said deed of conveyance of May 2d, 1910, from James P. Hanley and Katherine Hanley, his wife, to the defendant, James M. Hanley, covering lots 5-6-16 and 18, in Block 7 of Northeast Addition to Ross Park, an addition to Spokane, Spokane County, Washington, be held fraudulent and void, and that same be cancelled and held for naught, and that James M. Hanley be required to surrender and deliver possession of said real estate, and that the defendant be adjudged to have no right, title, estate or interest in and to said premises described in said deed, and that the com-

plainant be decreed to be the owner thereof and entitled to the possession of the same, and his title thereto quieted.

And that your orator may have such other and further relief as the nature of this action may require and as to this Court may seem proper and agreeable to equity.

May it please your Honors to grant to your orator a writ of subpoena, to be directed to the said James M. Hanley thereby commanding him at a certain time, and under certain penalty therein to be limited, personally to appear before this honorable Court and then and there full, true, direct and perfect answer to make to all and singular the premises and to stand, perform and abide by such order, direction, and decree as may be made against him in the premises as shall seem meet and agreeable to equity.

And your orator will ever pray.

(Signed) CHARLES P. LUND,
Solicitor for Complainant and of Counsel.

UNITED STATES OF AMERICA,
STATE OF WASHINGTON,
County of Spokane—ss.

R. F. Knight, being first duly sworn, on his oath says: I am the duly appointed, qualified and acting Trustee in Bankruptcy of James P. Hanley, a bankrupt, and complainant in this action; I have read the foregoing bill of complaint, know the contents thereof, and the same is true as I verily believe.

(Signed) R. F. KNIGHT

Subscribed and sworn to before me this 19th day of October, 1910.

(Notarial Seal) (Signed) CHARLES P. LUND,
*Notary Public in and for the State of Washington, Re-
siding at Spokane, Wash.*

Endorsements: Complaint.

Filed in the U. S. District Court, Eastern District of Washington, November 2d, 1910.

W. H. HARE, *Clerk.*

No. 964.

*In the District Court of the United States for the Eastern
District of Washington, Eastern Division.*

R. F. KNIGHT, TRUSTEE IN BANKRUPTCY OF
JAMES P. HANLEY, a Bankrupt,
Complainant,

vs.

JAMES M. HANLEY,

Defendant.

ANSWER.

The answer of James M. Hanley, the defendant in the above entitled cause, to the Bill of Complaint of R. F. Knight, trustee in bankruptcy of James P. Hanley, a bankrupt, the complainant therein.

This defendant, now and at all times hereafter saving to himself all and all manner of benefit or advantage of exception, or otherwise, that can or may be had or taken to the many errors, uncertainties and imperfections in the said bill contained for answer thereto, or to so much thereof as this defendant is advised is material

or necessary for him to make answer to, answering, says:

1. This defendant admits that on August 25th, 1910, James P. Hanley, named and mentioned in said bill of complaint herein, filed his petition in bankruptcy in the United States District Court for the Eastern District of Washington, Eastern Division, and on August 26th, 1910, was adjudicated a bankrupt.

2. This defendant, further answering, says that he knows not, and has no knowledge or information, and therefore can not say as to, or upon his belief or otherwise, whether the complainant was on September 7th, 1910, or at any other time, appointed trustee of the said bankrupt, or whether the complainant thereafter, or at any time, qualified, or is now, or at any time was the trustee of said bankrupt, and therefore this defendant denies the same and each and every part and the whole thereof and asks and prays full, competent and legal proof of the same and of each and every part and the whole thereof.

3. This defendant further answering, says and admits, that on or about May 2d, 1910, said James P. Hanley and Katherine Hanley, his wife, or one or the other of them, were the owners of Lots Five (5), Six (6), Sixteen (16) and Eighteen (18), in Block Seven (7), of the Northeast Addition to Ross Park, an addition to Spokane, Spokane County, State of Washington; and this defendant says and admits that on said date the said James P. Hanley and Katherine Hanley, his wife, executed and delivered to this defendant a deed of conveyance of said real estate, which said deed was thereafter

filed of record in the office of the Auditor of Spokane County, Washington, and is recorded on page 604 of book 264 of the Records of Deeds in said office, and that this defendant, by virtue of said conveyance, claims to be the owner in fee of said real estate. But this defendant further says that, as to whether at said time of the conveyance to him of said real estate, as aforesaid, the said James P. Hanley and Katherine Hanley, his wife, were the owners of said real estate as community property, under the laws of the State of Washington, this defendant knows not, has no knowledge or information, and can not say, as to or upon his belief or otherwise, and therefore this defendant asks and prays full, competent and legal proof of the same and of each and every part and the whole thereof. And this defendant further says, that at the said time of the conveyance of said real estate to him, as aforesaid, by the said James P. Hanley and Katherine Hanley, his wife, the said James P. Hanley was not bankrupt, but that said James P. Hanley was then wholly solvent, and, as this defendant is by the said James P. Hanley informed and verily believes, and upon such information alleges the facts to be, the said James P. Hanley then had no expectation, anticipation or apprehension of insolvency or bankruptcy upon his part, and no cause or reason to apprehend or expect that he would ever become or be insolvent or bankrupt.

4. Further answering, this defendant says that he denies that said conveyance was so, or otherwise, executed or delivered by the said James P. Hanley and Katherine Hanley, his wife, or either of them, to this defendant without any present consideration or any con-

sideration therefor whatsoever from this defendant or at all, and this defendant says that he denies that at the time of the execution and delivery of the said deed as aforesaid, the said James P. Hanley and Katherine Hanley, his wife, or either of them, were insolvent; and this defendant further says that he denies that said conveyance was so or otherwise, made to him, this defendant, who, he says and admits, is a son of the said James P. Hanley and Katherine Hanley, his wife, the grantors in said conveyance, for the purpose or with the intent to hinder, delay or defraud the creditors, or any of the creditors, of said James P. Hanley.

5. Further answering, this defendant says that at the time the said James P. Hanley and Katherine Hanley, his wife, executed and delivered to this defendant said deed of and for the said above described real estate, as aforesaid, this defendant paid the said James P. Hanley and Katherine Hanley, his wife, an actual, full, adequate and bona fide price and consideration for all of said real estate, to-wit: the sum of (\$1500.00) Fifteen Hundred Dollars, from and out of this defendant's own funds and money which he then possessed and owned and which was this defendant's absolute property; and that the said James P. Hanley and Katherine Hanley, his wife, then received and accepted from this defendant said price and consideration for all of said real estate and thereby actually and in good faith sold said real estate to this defendant.

6. This defendant further answering, says that at the same time, the said James P. Hanley and Katherine Hanley, his wife, executed and delivered to this de-

defendant said deed of and for the said real estate, as aforesaid, the said James P. Hanley and Katherine Hanley, his wife, were both wholly solvent and in good business and financial condition, and as this defendant is by them informed and verily believes and upon such information and belief alleges the facts to be, were wholly without any thought, expectation, apprehension or intimation of insolvency or bankruptcy as to or upon the part of either or both of them; that this defendant did not then, or for a considerable time thereafter, have any knowledge, information, belief, expectation or apprehension of the insolvency or bankruptcy of either the said James P. Hanley or Katherine Hanley, his wife, but purchased said real estate from said James P. Hanley and Katherine Hanley, his wife, and paid them fully and adequately therefor and received from them their said deed and conveyance thereof, all as aforesaid, in the utmost good faith, and that thereby this defendant became and is the absolute, actual and bona fide owner of all of said real estate in fee simple. This defendant further says that at the time of the execution and delivery of the said deed to him by the said James P. Hanley and Katherine Hanley, his wife, and of their sale and conveyance of said real estate to him, all as aforesaid, the said James P. Hanley was engaged in and carrying on a large logging, sawmill and lumber business at and near the town of Northport, in the County of Stevens, State of Washington, and had apparently and in fact ample resources and credit, and appeared to be, and was in good, sound and solvent business and financial condition; but that thereafter the said James P. Hanley was

unable to advantageously market a large stock of lumber which he then had on hand in his business, and together with his said wife, Katherine Hanley, became involved in litigation with T. B. Moore and Theo. C. Sherwood, co-partners doing business as the Crescent Lumber Company, who on or about July --, 1910, in said litigation sued out and caused to be issued an attachment against the property of the said James P. Hanley and Katherine Hanley, his wife, and thereunder attached substantially all of the property of the said James P. Hanley and Katherine Hanley, his wife, and that thereby the other creditors of the said James P. Hanley were alarmed and caused to press their claims and demands against the said James P. Hanley, and thereby the said James P. Hanley's credit and business were ruined, and because thereof, he then became insolvent and was forced into bankruptcy.

7. And further answering, this defendant says he knows not, and has no knowledge or information, and can not say, as to, or upon his belief or otherwise, whether, and, therefore, denies, that the assets of said bankrupt listed in his schedule or schedules in said bankruptcy proceedings or the assets of said bankrupt known to said trustee, or which has come into his possession, are sufficient to pay the claims of the creditors, which have been filed with or approved by the referee in bankruptcy of said court, or, with the real estate conveyed by said conveyance, will be insufficient to pay the claims of the creditors of the said bankrupt, whose claims have been so filed or allowed; and therefore, this defendant asks

and prays full, competent and legal proof of the same and of each and every part and the whole thereof.

And this defendant denies all and all manner of unlawful combination and confederacy wherewith he is by the said bill of complaint charged. All of which matters and things this defendant is ready and willing to maintain and prove as this Honorable Court shall direct; and humbly prays that the complainant's said bill may be dismissed at his own proper costs, and that this defendants' title to and ownership of all the said above described real estate be confirmed and quieted in him against any and all claims thereto or to any part thereof, by or upon the part of the complainant; and that this defendant be dismissed hence with his reasonable and proper costs and charges in this behalf most wrongfully sustained.

(Signed) L. J. BIRDSEYE,

Solicitor for Defendant and of Counsel.

STATE OF WASHINGTON,

County of Spokane—ss.

I, James M. Hanley, being first duly sworn, depose and upon my oath say: That I am the above named defendant in the above entitled action, and who makes the foregoing answer therein; that I have read said answer and know the contents thereof, and that said answer and all its allegations are true, except as to the allegations of said answer which are made upon information and belief as therein alleged, and that as to such allegations of said answer I verily believe same to be true.

(Signed) JAMES M. HANLEY.

Subscribed and sworn to before me by the said James M. Hanley this 29th day of November, 1910.

(Seal)

(Signed) E. D. RAY,

Notary Public in and for the State of Washington, Residing at Spokane, Washington.

Endorsements: Due service of the within Answer upon the undersigned this 30th day of November, 1910, is by the undersigned hereby accepted and admitted this said day.

(Signed) CHAS. P. LUND,

Endorsements: *Solicitor for Complainant.*

Answer.

Filed November 30, 1910.

W. H. HARE, *Clerk.*

In the District Court of the United States for the Eastern District of Washington, Eastern Division.

R. F. KNIGHT, TRUSTEE IN BANKRUPTCY OF
JAMES P. HANLEY, a Bankrupt,
Complainant,

vs.

JAMES M. HANLEY,

Defendant.

REPLICATION.

The replicant, R. F. Knight, Trustee in Bankruptcy of James P. Hanley, a bankrupt, saving and reserving to himself all and all manner of advantages of exception which may be had and taken to the manifold errors, uncertainties and insufficiencies of the answer of the defendant James M. Hanley, for replication thereunto says that he does and will aver, maintain and prove the said

bill to be true, certain and sufficient in law to be answered unto by the said defendant, and that the answer of the said defendant is very uncertain, evasive and insufficient in law to be replied unto by this replicant; without that, that any other matter or thing in said answer contained, material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed or avoided, traversed, or denied, is true, all which matters and things this replicant is ready to aver, maintain and prove as this Honorable Court shall direct, and humbly prays as in and by his said bill he has already prayed.

(Signed) CHARLES P. LUND,
Attorney for Complainant.

STATE OF WASHINGTON,
County of Spokane—ss.

I, R. F. Knight, being first duly sworn on my oath depose and say:

That I am the replicant named in the foregoing replication. I have read said replication, and am well acquainted with the contents thereof, and I say that the matters and things therein set forth are true, and that as to the matters and things which are therein alleged upon information and belief I believe it to be true.

(Signed) R. F. KNIGHT.

Subscribed and sworn to before me this 21st day of December, 1910.

(Seal) (Signed) CHARLES P. LUND,
Notary Public in and for the State of Washington, Residing at Spokane, Wash.

Endorsements: Replication.

(Testimony of James P. Hanley.)

Filed in the U. S. District Court, Eastern District of Washington, December 29, 1910.

W. H. HARE, *Clerk.*

In the District Court of the United States for the Eastern District of Washington, Northern Division.

R. F. KNIGHT, TRUSTEE IN BANKRUPTCY OF
JAMES P. HANLEY,

Complainant,

vs.

JAMES M. HANLEY,

Defendant.

Be it remembered, the above entitled cause came on to be heard at Spokane, Washington, the 4th day of January, 1912, at 10 o'clock A. M., before Honorable F. H. Rudkin, Judge.

C. P. Lund appeared on behalf of complainant.

L. F. Birdseye appeared on behalf of defendant.

Thereupon the following proceedings were had and done, and the following exhibits were offered and received in evidence, to-wit:

JAMES P. HANLEY, sworn on behalf of complainant, testified:

DIRECT EXAMINATION.

My name is James P. Hanley; I am the father of James M. Hanley, the defendant in this case. I couldn't hardly tell you when I first engaged in the sawmill business in this country. I had my first mill at Deer Park; up above Deer Park, although I had been in the lumber business before that. I established a mill up there, or

(Testimony of James P. Hanley.)

acquired an interest in one; I disremember what year that was; I could not tell you. I ran the sawmill at Deer Park till 1908, I believe. I ran it up until 1908; I couldn't tell you how many years I ran it; probably five or six. I then moved to Northport, Washington. I did not move my mill up there; I might have moved a part of this planing mill up there, a few things, not much. I went up to Northport and established a mill there. I think I started in 1907 to build at Northport. I did not operate that mill continuously until I filed my petition in bankruptcy; it was idle for awhile. I operated it spasmodically; I operated it when the weather was favorable to run it, not in the winter time. I had something over ten thousand dollars in cash when I moved to Northport, when I started in business there to build that mill; that was in cash; I had a stock of lumber besides; the stock of lumber I had must have been between a million and a half and two million feet of lumber, at Deer Park; that is my old mill; that I sold out later; I could not tell you how much I realized for that lumber, the net amount; I do not know it approximately; I do not know within four or five thousand dollars how much I realized on it; it is on the books; Mr. Wentworth has all the books; I couldn't tell you offhand. I could tell you how much a thousand the different grades brought, but how much the whole amount came to I could not tell you. I bought a piece of ground up there, two or three acres. I disremember how much I did pay for that. I am not sure whether it was about a thousand dollars.

(Testimony of James P. Hanley.)

Q. You bought two pieces; you paid one hundred dollars for one small piece and something less than a thousand for the the other, making thirteen acres in all, or thereabouts

A. Yes, sir; I believe it was; I am not positive.

I started to build my mill; I don't know how much money I invested in the construction of that mill and in the machinery; I couldn't tell you offhand. In the building of it—let's see—it must have cost altogether about twenty-five thousand dollars for the mill and timbers and machinery, equipments and everything; that just about represented my investment up there. I couldn't tell you when I did acquire these four lots that are involved in this lawsuit either, without looking at the record; if you look at the record you can see when I acquired them. I was the owner of these four lots prior to the time I deeded them to my son. Me and my wife made the deed to my son, James M. Hanley. These four lots in Spokane, I owned them probably two or three years, maybe. As to the use I put those lots to, I had a lumber yard on them for a year, about a year. Myself and Joe P. Kelly were running a retail yard down there. We bought our lumber from different parties; some from the Acme Lumber Company; some from the Buckeye; some from myself, and different places all over. Part of those lots I acquired before I moved to Northport. As a matter of fact, one of those lots, there was a balance due on, and that balance was paid to Mr. Moore along about the 11th of August, 1910, shortly before I filed my petition in bankruptcy. He took up the deed for

(Testimony of James P. Hanley.)

me and put it on record. That was one of the lots that I had previously conveyed to my son.

Q. Now, Mr. Hanley, your wife, did you and your wife—what time were you married?

The COURT: Does the community or the separate character of this property make any difference?

Mr. LUND: I think it is material.

Mr. BIRDSEYE: I will concede that it is community property; I think it is.

The WITNESS: Mrs. Hanley bought a house and lot up in Lidgerwood Park in this city. I could not tell you, I am sure, how long we owned that; I think it is about 1894 we started to build; 1904; I am not positive; I think that is the time. That is claimed as her separate property. The title was in her name on this 2d day of May, 1910, this Lidgerwood property. On the 2d day of May I caused the deed to be executed, me and my wife caused a deed to be executed to my son Jim for these four lots. That deed was executed at Colville. I caused it to be executed. I don't know the notary's name who made it out in Colville there; I don't know that it was W. L. Sax. It was the abstractor. Jim was not there at that time; he was at Northport. After the deed was made out I gave it to Jim. I gave it to him on the 3d of May. At the same time I and my wife did not cause a deed to be executed to our daughter Katherine for the Lidgerwood property in Spokane. That was afterwards, in July.

Q. What time in July?

(Testimony of James P. Hanley.)

Mr. BIRDSEYE: We object to further testimony as to that and ask that the testimony given be stricken out, because it was too late in reference to the deed on the 2d of May, or when the deed was executed.

Mr. LUND: I will say that the deed was not filed until the 2d of July, although it was dated the 2d of May.

The Court overruled the objection.

To which ruling the defendant duly excepted.

The WITNESS: I don't exactly remember the date I and my wife executed the deed of this Lidgerwood property to my daughter. If you should tell me the date I wouldn't know whether it was the right date or not; I don't know, I am sure, whether it was the 3d of July, or the day before the 4th. I don't know anything about, as a matter of fact, that this deed to my son Jim was not filed for record in this county until the 22d; I don't know anything about the deed after I gave it to him. I claim that he paid me fifteen hundred dollars in cash at the time that the deed was delivered to him. The money was paid in cash, paper and gold. I don't remember just the exact amount of paper and how much gold. There was more paper than gold. I couldn't tell you the exact amount of each kind; I answered that before in the referee's office. I told you I couldn't tell you. There was gold in tens and twenties and fives; the paper was mixed the same way. During the time I had been carrying on my business at Deer Park and Northport I did not do business with the First State Bank of Deer Park all the time. I done business with the Exchange Bank and Spokane and Eastern Trust Company until I met Mr.

(Testimony of James P. Hanley.)

down at the depot and he induced me to do business with him, at the First State Bank of Deer Park; the books will show that. I do not know the date. I could not tell you how long I had been doing business with the First State Bank of Deer Park at the time I filed my petition in bankruptcy; it may have been one or two or three years; it was from one—I couldn't tell you the exact date, or how long. I did not say that I did all of my banking with them from the time I went there; I had another account at the Spokane and Eastern Trust Company in Spokane, in my name. I had an account at the Spokane and Eastern at the same time I had one at the First State Bank at Deer Park; I had an account with the Spokane and Eastern at the time I was dealing with the Exchange National. I don't know that I did deposit this fifteen hundred dollars in the usual course of business at the bank; I don't know whether I did or not. I am not positive whether or not I did deposit any part of that in the bank on or about the 2d or 3d day of May, or along about there. I am not positive whether I testified before in my examination before the referee that I didn't deposit it in the bank. If I did so testify that is probably so. I do not know whether I deposited any of that money in my bank; I told you I did not. I don't know whether Jim had this money, this fifteen hundred dollars; I don't know a thing about it; I don't know where he got his money from. I don't know where he had it when he paid it to me; he brought it in and paid it to me; he paid it to me in Northport, at the place where we were living. We were living in one of the

(Testimony of James P. Hanley.)

smaller houses; you wouldn't know if I told you, you have never been up there; we were living in Northport; he gave it to me in the house where I and Mrs. Hanley were living. It was all in money. It was in the evening on the 3d. I got home with the deed the afternoon of the 3d. I did not call him in. I had some arrangement with him previous to that, or I wouldn't have went down and made the deed out, if I didn't.

Q. Couldn't you have made it out at Northport?

A. I was down there (Colville) on business, so I made it out there; there was a notary there with a seal.

There was also a notary at Northport with a seal; he was a railroad man and probably wasn't there at the time; I disremember the particulars about it. I don't know where Jim had any more money than the fifteen hundred dollars with him at the time. I did not see any other money, only the fifteen hundred dollars. I paid part of my debts with the fifteen hundred dollars.

Q. What debts did you pay with this fifteen hundred dollars?

A. Well, I just got a letter from Turner here, when you put that question to me before, I wrote to him to find out how much I paid. I paid three hundred and seventy-five dollars to Mr. Turner, according to his letter; that is the credit I got on his books; do you want to see it? (Handing the letter to the Court.) I say that I paid three hundred and seventy-five dollars, according to his (Mr. Turner's) books. I did not pay that by check, he says not. I don't know anything about it, except what that letter states; I don't know the exact

(Testimony of James P. Hanley.)

amount; I know I paid him cash. I didn't keep track of every item in cash I paid.

Q. Whom did you pay any more money to

A. Well, I paid to the Spokane & Northern Railroad Company and I paid to Mrs. _____, down here where I used to room, and to restaurants around, and to shows, and probably for clothes, and some of it to my wife. I didn't keep the items as to how much I paid, an itemized account of it; I could not tell you the exact amount I paid to anybody; I am not keeping an itemized account of what I spend now. I did not carry this fifteen hundred dollars around with me, not that I know of. I left part of it in the box I had in Spokane here; safety deposit box. I left it there when I came to town, probably, only what I needed; when I would come in I would get what I needed, what I wanted. I do not know how much money I left in the box at any particular time. I put that price of four thousand dollars on the lots on account of the Burlington road and the Great Northern was intending to come through there at that time. They bought all of the property along through Lidgerwood, and all people in that vicinity thought that is where the road was coming through from the Burlington. I had in making some statement listed that property as assets to the extent of four thousand dollars. The Great Northern had no spur there; I put the spur in myself to the lots.

Q. Did you consider they were worth four thousand dollars?

(Testimony of James P. Hanley.)

A. Well, I didn't know; if I could get a speculator to buy them, like the rest of them, for that, I would sell them; I never put a value on them. When I turned this property over to Jim I took into consideration that it was more than I paid for it, and I needed the money; the bank was writing me every once in awhile they could not let me have any more money and they would try in another week or two, if times were a little better, I could have then some more. So that is the way it went, and I was pushed all of the time. I was not so hard up; I had lots of collateral, but I did not have the cash, on account of having to hold the 1909 year's cut of lumber for the Crescent Lumber Company, did not sell but three car-loads in 1909; I had plenty of collateral, but not the money. At this particular time, the 2d of May, I was indebted to the State Bank of Deer Park; I don't know, about twenty-seven thousand dollars; I can tell you pretty near (referring to memo). I don't think it was quite as much as that; it might have been, but I don't think it was; I think it was about twenty-four thousand dollars about that time, at that time.

Q. Twenty-four thousand and interest?

A. This is March 16th; it might have been by the 2d of May; I am not positive. All of that paper was due at that time in this respect, that the notes were made out for ninety days, on account of the bank examiner not allowing them to make loans any longer than ninety days, and they renewed them every ninety days. I could not tell you whether they were all past due or not; I have not any with me.

(Testimony of James P. Hanley.)

Q. You had some when you made up your schedule to show the date of the maturity of those notes?

The COURT: It is so near, it would not make much difference anyhow.

The WITNESS: I was indebted at that time to the Crescent Lumber Company in the sum of something like probably eleven thousand dollars; I ain't sure; I will see.

The COURT: That is close enough.

Q. And that was money that had been advanced by this Crescent Lumber Company, where they would have a lien on the stock, and as the stock was cut you would give them a bill of sale of particular lumber; is not that correct?

A. To secure their seven dollars a thousand, I had a contract with them. They were to take seven dollars a thousand out of the lumber and apply it on their debt and turn over to me the difference, under our contract.

Q. But the lumber was segregated and you would give them a bill of sale of all of that lumber that you cut; is not that correct?

A. That was for to protect them against damage suits; that was the understanding, in case anything should happen in the mill, or a man got hurt, they wanted to have their money protected. They wanted to have their lumber protected, so in case of any damage suits, or anything coming up, or anybody hurt in the mill, the lumber would not be liable for the damages. I don't know I was owing to other people at that time; I did not make up a statement at that time; I have got a statement made out March 16th; I can tell you about then.

(Testimony of James P. Hanley.)

I could not tell you about May 2d exactly, without looking over the books. I claim there was something like two thousand dollars due my son John for wages up to August. That was at the rate of two hundred dollars a month for pretty nearly two years, or a year and a half back, that was due. I claim there was about eight hundred dollars due my son Jim, and that was due at that time. I claim there was something due my other son, a minor, that is later on; that was in July, I think, that he went there. I was owing the store at Northport; that was an open account; I can't tell exactly how much it was. It was not a couple of thousand dollars, not that much, I don't think. About this time I was not having trouble with the Crescent Lumber Company; never no trouble until the 25th of July. That was the time that the bank sent Mr. Irish up to get a mortgage on everything, tried to keep the Crescent Lumber Company from getting what belonged to them. They came up there and wanted a mortgage on everything in the place, and I really did not suppose the Crescent Lumber Company were doing what they told me they were doing, so I made Mr. Irish agree that the Crescent Lumber Company would not be beat out of their money, that they could take it as long as they held their contract; I have it here; I can show it to the Judge, if he wishes to see it. I was in good financial condition until the Crescent Lumber Company had started the row. Here is the agreement, if you want to read it over, between me and the cashier of the State Bank, that the Crescent Lumber Company shall get their seven dollars a thousand out

(Testimony of James P. Hanley.)

of the lumber. I was shipping and sawing lumber all of the time; I probably had on hand about fourteen hundred thousand; that was what I figured up on the 16th of March. About that. Yes, we cut after that. I was shipping and cutting all of the time after that. That lumber was worth approximately seventeen dollars a thousand, the whole stock, probably twenty. I had shipped the Crescent Lumber Company some lumber through this time, I don't think that they was owed eleven thousand dollars; at that time I was shipping them, whenever they got orders I could fill. At that time I had money that the bank let me have. On the second of May I had no money, only what the bank let me have. As a matter of fact, my account was overdrawn right along; my account was overdrawn as a general thing. When Mr. Olson asked me to do business with the First State Bank of Deer Park I told them I was putting in a new plant, and he told me I could have all the money I wanted.

Q. Answer my question. You never at any time since you started business at the bank, reduced your indebtedness, but constantly increased it?

A. Yes, sir; I was putting in a new plant and had to use the money. The mill and the plant was not about in the same condition on the 2d of May as it was when I filed my petition in bankruptcy; I put in a planing mill after that, if I ain't mistaken.

Q. A year after the 2d of May?

A. No, I had it in before; that is right. The plant was not just the same. I put a boiler in. I put in a five

(Testimony of James P. Hanley.)

hundred horse power; it was not the same. That was the one I bought from the Holland-Horr Mill Company; that is to say, I had a contract with them for that. I did not, about the time this deed was placed on record and the other deed to my daughter also, give a bill of sale of all my horses and personal property up there connected with the mill, to my son John.

Mr. BIRDSEYE: Objected to, unless connected in point of time, not bearing on the transaction, being some two or three months later.

Objection overruled.

Defendant excepts and exception allowed.

Why, I gave a bill of sale of them to Jim here on the advice of the bank's attorney, Mr. Smith, that they brought up there on the 22d. He came up there to get a mortgage on the rest of the stuff. He says, "The Crescent Lumber Company is down in Spokane, and they are putting an attachment on everything, and they will be up here and they will close everything up by Monday," and he says, "You better protect yourself," and I gave the bank's attorney, a Mr. Irish, a mortgage on everything that they wanted, but they did not put that mortgage on record, because they found out afterwards, I suppose, that it would not be legal or something, he advised me to do this. Mr. Smith advised me to give a bill of sale to my son; he told me to put that property in some way so as to pay my creditors some way, in some shape that I could get it to my creditors, that the Crescent Lumber Company would tie up everything Monday.

(Testimony of James P. Hanley.)

Q. And he told you that by giving a bill of sale of your horses and your logging outfit and your paraphernalia around the mill—to your son John, was it not?

A. No, it was Jim.

Q. This same boy?

A. Yes, sir, and he turned it over to Mr. Turner.

Q. That was the way to protect your creditors?

A. That was what he said, and that is what he came up there for, to protect the bank, and I gave a mortgage on anything they asked for.

Q. Did he tell you, also, to make this deed to your daughter for this lot over here in Lidgerwood?

A. That was to protect the man that had paid four hundred dollars on that lot to me.

Q. You mean by the lot, the house and lot?

A. Nothing said—anything about that. He did not advise about that; that was not my property; that was my daughter's. I joined in the deed, probably, but it was to make it more binding. There was a valid consideration paid for the deed. There was a consideration for this bill of sale to my boy; he paid a dollar. I don't know exactly how much the property was worth; I don't think it is worth several thousand dollars; it was worth more than a dollar, probably, I guess. I don't know how many teams it included; it included several, and lumber donkeys, chains and logging outfit and that sort of thing. I gave that to him for the consideration of a dollar, and he paid me the dollar; and there was a dollar consideration paid when I gave the deed to my daughter. She paid that. I don't know who put those instruments

(Testimony of James P. Hanley.)

on record, I am sure. I did not send down to the auditor of Stevens County a bill of sale for the horses and wagons; I think Jim sent that down; I am pretty sure; I had nothing to do with that. I considered after I gave him the bill of sale I was through with it. I think my wife sent the deed to this home property over here to the auditor of this county, or Katy did, my daughter, I ain't sure; I did not have it. This son Jim of mine is twenty-four years old.

Q. And did you ever know where he kept any money prior to this time?

A. No, sir; I don't know where he keeps his money now.

Q. You never heard where he kept this fifteen hundred dollars?

A. I never asked him.

Q. Did you know whether he had any more money than that?

A. I don't know anything about it, whether he did or not. He got this fifteen hundred dollars from his mother. She got it from his grandmother to keep for him until he was of age. His grandmother lived in a house with me; she did not live right with us. She was an old lady past eighty-four years of age when she died; I don't know exactly. She had been supporting herself; when she got so feeble she could not feed herself, when she was near her, my wife used to send her food. She died, I think, I ain't positive, in 1903 or 1904, at Deer Park, 1904 if I am not mistaken. She had—let's see—when she died she probably had four or five thousand

(Testimony of James P. Hanley.)

dollars. I don't know where she kept it. I know she never kept any money in the bank since she was in St. Louis. She did take the money out of the Bremen Savings Bank in North St. Louis, Charlie Krohne was the cashier. She came to this country from Montana more than twenty-three years ago, and she was living with me here in Spokane. She had that money at that time. She did not have all of that money at that time; she had money that she brought from St. Louis with her when she came out here, and she had at that time, when she was living with us in Deer Park, she had the money from the sale of her homestead and money from the sale of her timber. She lived in Spokane with me for just a couple of months, then we located on a homestead I took up one and my mother took up one and we both proved up. She lived in a small shack up there on her homestead. Some of the timber was sold to the Chattaroy Lumber Company. She got her money after the company failed; she attached it. I disremember now how much she got from the Chattaroy Lumber Company, that was a long time ago; she sold the lumber and got her money out of it; I don't know how much; it was more than a hundred dollars; several hundred. I don't remember how much she got for the homestead when she sold it.

Q. As a matter of fact, you sold your homestead and hers, didnt' you, yourself?

A. Yes, sir; parties bought them both.

Q. And you negotiated the sale?

(Testimony of James P. Hanley.)

A. I did; the man came there and negotiated her sale for her; I don't know who the men were; I don't know the man's name; I don't know where he is now; I have never seen him that I know of since; I might. I don't know whether I negotiated the sale of the homesteads to a man by the name of McCrea; I don't know what his name was. I know how much I got for mine; I got twelve hundred dollars for mine, for my one hundred sixty. I don't remember whether my mother got more or less; it might have been about that amount. As a matter of fact, I did not take the money. She had it herself. Mr. Kelly had to go over to the house and sign and acknowledge the deed for her before the money would be paid, acknowledged the deed at the house there. I did not afterwards buy a forty up there nearby these two quarters; you are mistaken there; I did not own a forty there; my wife did, while we still owned this homestead.

Q. You sold the two homesteads and still retained the forty?

A. No, sir. My wife sold the forty before the homestead was sold. I think the building my mother lived in was larger than ten by twelve on that forty; I disremember its size, but it is larger than ten by twelve. She did not live with me at any time. When I moved to Deer Park we lived in the town of Deer Park.

Q. And she lived in a little building that used to be a chicken coop in the back of your house, did she?

A. She and the two boys lived up there; the house was not big enough, it was the only house that was

(Testimony of James P. Hanley.)

vacant at Deer Park at the time. She did not live there for many years before she died; she lived there for just from the spring until the next spring; about a year, probably; I am not positive; it may have been shorter than that. Her and John and Jim lived in the little house and we lived in the other one. She had all of this money with her all of the time. I don't know where she kept it. I never asked her where she kept it. Never had any conversation with her about it whatever, at any time, that I remember of; never saw the money myself. I know she had it from what she had at different times. I saw different amounts, different times; I paid her different amounts myself. I have not any memory of how much I ever paid her; I paid her whatever was got out of her lumber, and then she received her own money for her land. That is all the money she had, but what she brought from St. Louis. That was about twenty-five hundred dollars, that she brought from St. Louis; maybe more than that a little, maybe. I don't know how much more she brought; I know she brought that much. I don't know, as a matter of fact, that she never had to exceed three hundred dollars when she came here; I don't know where you found that out. I know her business better than that. She kept her money buried; all of those years she kept it buried, and kept it buried in St. Louis after she took it out of the bank there. She also sold her property in St. Louis before she came out here; if you wish to know the truth about it and look it up, I will give you a short description of the property, so you can look it up; Forty-three North Second Street, St.

(Testimony of James P. Hanley.)

Louis, but you can look that up if you wish. She came here from Montana; we stopped in Montana. She came from St. Louis to Minneapolis, and from Minneapolis to Trout Creek, and from Trout Creek up here. She lived with me at Trout Creek. She took care of herself; she was able to take care of herself at that time.

CROSS-EXAMINATION.

The WITNESS: I began the erection of my plant at Northport in 1907; I am not positive of the time in the year. At that time I had ten thousand dollars in cash in the two banks in Spokane here, or a little before that, about that time. That was money that I had then accumulated and had on hand, and I had all of this stock and other mill at Deer Park and all of the 1907 cut.

Q. Now, what was the value of your mill at Deer Park at that time?

Mr. LUND: I object to that. I did not go into that.

The COURT: Objection overruled. I will permit him to say what property he had at that time.

Plaintiff excepts and exception allowed.

A. I sold it for three thousand dollars. I also had a stock of lumber at Deer Park; it would be hard to tell the exact value of it at that time. I had, approximately, at Deer Park, between a million and a half and two million feet. It would be worth on the average probably seventeen dollars a thousand at that time. I put the proceeds of the Deer Park mill and Deer Park lumber into the Northport plant. This money that I borrowed from the Deer Park State Bank, or First State Bank of Deer Park, I put that in also, and I bought timber up there

(Testimony of James P. Hanley.)

also, besides. I put everything into the Northport plant and into the business, that I borrowed.

Q. How much altogether?

The COURT: Twenty-seven thousand dollars, I think he said a while ago, was it not?

Mr. LUND: At this date, there was about twenty-seven thousand dollars and interest due.

Q. Was that twenty-seven thousand dollars that you had borrowed of the Deer Park bank, all put into the business of that concern, what more did you put in?

A. Well, I put in the money I got out of this lot on Nevada and Bridge Street there. I sold a lot there for one thousand dollars and put four hundred dollars of that in, that is all I got out of that.

Q. Did you get any more money of the bank that you put into this Northport business than this twenty-seven thousand dollars?

A. I believe they claim I got thirty thousand dollars from them.

Q. And you put that in the business?

A. Yes, sir.

Q. Then into your Northport plant went this ten thousand dollars that you had in cash, this million and a half to two million feet of lumber worth seventeen dollars per thousand?

A. Yes, sir.

Q. And twenty-seven or twenty-eight thousand dollars from the Deer Park State Bank?

A. Yes. And some money from other sources. I

(Testimony of James P. Hanley.)

had that in the plant, approximately that, on the 2d of May, 1910, when the deed was made to Jim.

Mr. LUND: He did not say he put it into his plant; he said he put it into his business.

Mr. BIRDSEYE: What do you mean by putting it into your business? Let's see what became of it.

A. It was all in all the same business; I put it into the lumber and put it into the mill, the most of the machinery and the land, and a good part of the timber, I paid for with this ten thousand dollars myself. Having put that into my business and plant up there, none of it has disappeared; none of it has gone out of the business in any way, that I know of. It was all in the plant and business on the 2d of May, 1910. I have a list of the property here which I had on the 2d of May, 1910—that was on the 2d of May?

Q. On the 2d of May, 1910. I think this deed was dated on that date or the 3d?

A. I have got a list of the stuff here that I had on the 16th of March, and it was about all the same on the 2d of May that it was when I took this memorandum of it. That memorandum was made on the 16th of March, 1910, and this deed to Jim was made on the 2d of May, 1910. Now, I had substantially the same property, the same assets, when I made the deed to Jim, that I did on the 16th of March, 1910. My business had not changed materially during that time. Now, refreshing my recollection, on the 2d of May, 1910, I had a sawmill and machinery, twenty-five thousand dollars.

(Testimony of James P. Hanley.)

The COURT: If you have a list that you desire to put in that way, it is just as well as to read it off; it is quite lengthy.

Mr. BIRDSEYE: Very good. It may go in.

The WITNESS: The statement that I have there, dated March 16, 1910, states with approximate accuracy and correctness the amount and value of the property that I owned and my indebtedness the 2d of May, 1910, because of the lumber I was shipping; I was sawing all of the time, and we were filling up the yard again as we sawed. We had some logs which we were cutting into lumber and were more valuable, and I was selling out the lumber and replacing it in that way; I might have had as much lumber on the 2d of May as on the 16th of March, because we were sawing the timber as long as we went; that was the only thing that would decrease it; still, we were putting it into lumber and it would be worth materially more.

Q. It would be worth more?

A. Yes, sir. That might make a little change in my assets, reduce the value of my assets, I should not think a great deal. The total value of my property on May 2d, 1910, as shown by this statement, is ninety-three thousand, six hundred sixty-three dollars and twenty-five cents. The total amount of my indebtedness at that time was thirty-seven thousand and fifty dollars.

Mr. BIRDSEYE: We will ask to have this marked as an exhibit, so we can identify it, and offer it in evidence.

The COURT: It will be received.

(Testimony of James P. Hanley.)

The paper is marked Defendant's Exhibit "A" and the same is hereto attached and made a part of this bill of exceptions.

At the time this deed was executed by wife and myself to James to the 2d of May, 1910, the condition of my business was prosperous and a good outlook for the sale of lumber. I was operating my plant at that time. I had plenty of logs and all paid for, everything was paid for; I had a million and a half feet of logs on the bank when I filed a petition in bankruptcy. The condition of the lumber market at that time was good. I could market everything of the outcut of the mill; I had a contract with the Schroeder Company of Milwaukee for all of the shop lumber I could cut that year; contract for the year's cut, and the James H. Tevis of Denver wanted a contract for the balance of the common stock and finish lumber. My financial condition at that time, as to pressing debts, nobody was pressing me for payment. I think it was in February that the cashier of the Deer Park State Bank came up and I gave him security for twenty thousand dollars, which had run that far without any security. That security was on ninety days from the 26th day of February, 1910. After the 2d of May, 1910, when this deed was made, I believe the bank loaned me some money.

Q. How much money did they loan you after that time, without security?

A. Well, I gave them security at different times. I would overdraw, and then Mr. Irish would send me a note for to make out to them and I would make it out and

(Testimony of James P. Hanley.)

send it back to them. By security I mean first mortgage. That was all I gave them, was on the twenty thousand dollars. I gave them no mortgage until after the 26th of February, 1910. When they came up in July, when the Crescent Company filed an attachment, then I gave them mortgages on the balance of the stuff they asked me for security on.

Q. As showing whether your credit was good or not, what, if any, money did the bank let you have after the 2d of May free and without further mortgage?

A. They let me have, I suppose, close to ten thousand dollars. I could not tell you at what time after the 2d of May; at different times; at various times along up until the Crescent Lumber Company had filed an attachment on the property in Spokane here. That was about July 22d.

Mr. LUND: July 23d.

The WITNESS: My credit was such, after the 2d of May and then up to the 22d of July of the same year, that the bank let me have, without further security, the sum of ten thousand dollars during that time. The bank first began to press me on my indebtedness along in the spring.

Q. I mean after the 2d of May?

A. After the 2d of May they never pressed me, only they would write to me and tell me I could not draw any money and that the depositors was moving out, the Arcadia Company had bought up several ranches and they were drawing their money out of the bank, and Mr. Irish wrote me at one time particularly, I remem-

(Testimony of James P. Hanley.)

ber, not to draw any large checks or they would not honor them.

Q. When was that? Have you the letter?

A. No. I think it is in Mr. Murphy's office.

Mr. LUND: If available, that is the best evidence.

The COURT: Yes.

Mr. BIRDSEYE: I am not particular about that; I don't think it cuts any figure.

The WITNESS: That was along in May, if I am not mistaken; March or April; April, I think it was. That was before I made this mortgage.

Q. Now, after the giving of the mortgage to the bank for the twenty thousand dollars, on the 26th of February, 1910, and particularly after May 2d of that year, when did the bank begin to press you to pay that money?

A. Well, they started to press me just before the Crescent Lumber Company had filed the attachments; I had shipped them some lumber and the Crescent Lumber Company would not honor the drafts. That was in July some time; it was before the 22d of July; it was probably the tenth or twelfth of July, maybe.

Q. Then, if I understand you, from the time you gave them this security on the 26th of February, 1910, until about the 10th of July, the bank did not press you for payment at all?

A. They did not press me, but they merely said they were short of funds on account of those ranchers moving out, the Arcadia Orchards Company buying the lands up, and the farmers moving out, taking their de-

(Testimony of James P. Hanley.)

posits out of the bank, so I wrote Mr. Irish that I would stop sawing in July and ship out the lumber and get the money for it, so as to relieve the stringency of the bank.

Q. They did not seem worried about what you owed them, did they?

A. No, sir. They were just short themselves.

Q. Now, while we are referring to bank matters, what is the fact about your overdraft at the bank. Mr. Lund asked you if you were not always in overdraft there?

A. They just allowed me to overdraw, for what all of the money I needed to use in the business, and when it would amount to anything, why then they would send me a note, to give my note for it, so as to fix it up with the bank examiner. I had an understanding with them that I might overdraw. The fact about Mr. Moore having paid a portion of the purchase price of those four lots in question—the fact is, I think there was about twenty-six dollars due on it, and at that time they had agreed to fix things up so as to let me start up running again, and they wanted my son to give them a mortgage on those lots for security, they wanted to have the title clear, so as to have me give them a mortgage on the lot to secure their money until they could be paid in lumber. That was, if I am not mistaken, in August, 1910. I ain't positive, at that time, whether Moore paid twenty-six dollars on one of those lots, but I think it was about that. I paid for these lots, I believe, one hundred and twenty-five dollars for one lot, and one hundred and fifty for another, and I am not certain, but I think three

(Testimony of James P. Hanley.)

hundred dollars for one other one, and three hundred twenty-five for another one. I believe I purchased two of them in 1907; I am not positive; the others, I believe, in 1908, I think I purchased one more and in 1910 I may have purchased or agreed to purchase two more, in 1908, I ain't positive.

The COURT: How much did you pay for the four lots?

A. I paid \$125 for one; \$150 for another one, and I believe \$300 for another one; \$325 for the last one. I think I purchased two of them in 1907 and the other two in 1910. I can't remember distinctly. As to the value of those lots at the time they were deeded to my son, May 2d, they were selling probably in there, the same property right around there, for three hundred and twenty-five and four hundred dollars for lots, similar property; McCrea & Merryweather went out and appraised this property for the Crescent Lumber Company before we was to take any action, and they appraised it at four hundred dollars a lot.

Q. The four lots?

A. Yes, sir.

Q. You say your son James paid you fifteen hundred dollars in cash at that time

A. Yes, sir. The circumstances of my selling these lots to James, he wanted to get there before, when we started the retail yard. He was to go in with us there, take a third interest in the yard with me and Joe P. Kelly, and we was to incorporate, so he was busy and could not get down at the time we was to start there,

(Testimony of James P. Hanley.)

and we let it go along a little while until he had time to come down. So then when he got here, Kelly refused to incorporate; he wanted to have it as a company. That was not the first talk that I had with my son James about buying these lots. The first talk, I think, was in 1908. The discussion of it then was, I wanted him to get in there and buy some of the lots and invest his money in property. There was talk about a woodyard later on, not at that time. From that time down, this matter was discussed between me and my son, and he had this money all of the time. My reason for selling these lots, the lumber yard, somebody set fire to that in October; they burned two yards there that night, they burned another yard over about four blocks from us, and I was short of money, this man that was in with me wrote me in here I had to pay eight hundred and some odd dollars to the people he had there, and those different plans fell down, a large amount for lumber and lath and shingles, and everything, and so I knew the matter of insurance I had on it, and I did not get much out of it.

Q. What did you do with the fifteen hundred dollars which James paid you for these four lots?

The COURT: He has answered that as far as he is able.

The WITNESS: I paid to the Northport Trading Company, Mr. Turner's company, his letter says, \$375 in cash.

Mr. BIRDSEYE: I desire to offer this letter in evidence. It is in the nature of a receipt.

(Testimony of James P. Hanley.)

Mr. LUND: It is secondary evidence.

The COURT: This letter from Mr. Turner, I don't think is any evidence that the money was paid; it was written after the money was paid. You can offer this. No court would act on it.

The same was received and marked Defendant's Exhibit "B."

The WITNESS: I paid the Northport Company out of this fifteen hundred dollars, three hundred and seventy-five dollars; I could not tell the date; I can't remember the date. I think that I made a payment very soon after I got the money from Jim. Now that payment was upon indebtedness connected with my business in the Northport business, it was upon my open account there.

Q. What share of that money did you pay on account of your business, or put into your business?

A. I am not sure, Mr. Birdseye, whether I paid any—how much, or any of it, to these different parties. I have paid some cash and checks, and I have given, where I had the money coming due for lumber, I gave orders to them to collect it, so as to make them secure, and get their money probably quicker. I spent the balance of the fifteen hundred dollars in my business and for our living and going around, for transportation, etc. At the time this deed was made on the 2d of May, 1910, to James, I had no reason at all to anticipate insolvency or bankruptcy or financial embarrassment in my business, until the Crescent Lumber Company had filed the attachment, at I did not at that time, I did not

(Testimony of James P. Hanley.)

honestly believe them when they came up and told me they were doing it. I was loading four cars of lumber for the Crescent Lumber Company at the time they levied these attachments on the property in Spokane here. At the time the Crescent Lumber Company attached, on the 22d or 23d of July, 1910, my financial and business condition was really better than on the 2d of May, that year. My assets or liabilities had not materially changed, to any marked degree.

Mr. BIRDSEYE: I desire to offer in evidence a certified copy of the record, the attachment proceedings of Moore and Sherwood as the Crescent Lumber Company, against James P. Hanley and Katherine Hanley, showing the institution of the suit, and the attachment as pending, to show what brought on the crisis in this man's business, on the 22d or 23d of July, 1910.

The COURT: It will be admitted, perhaps, after examination, so as to avoid encumbering the record.

Mr. LUND: I think that, of course, brought it to a focus. I don't know what I would be asked to admit. I would consent that it go in, if Your Honor wishes to receive it.

The COURT: Very well.

Mr. LUND: I think there are a number of things in there that might be of value to the Court. The amount they claim is \$9,284.80 and interest. The attachment was levied on the 23d of July. This is dated the 21st. The suit was instituted in this county, and the writ issued out of this county of Stevens. They attached in this same suit these four lots and the home

(Testimony of James P. Hanley.)

place of Mr. Hanley that has been conveyed, and that we claim has been conveyed in fraud of creditors.

Mr. BIRDSEYE: The record shows that.

Mr. LUND: The deed was placed on record on the 22d, and they attached it on the 23d. This suit is against James P. Hanley and Katherine Hanley, husband and wife.

A. That is my wife and myself.

Q. Now the sheriff's return to this attachment don't show a levy upon any of the mill property in Stevens County?

A. That was levied on by the sheriff of Stevens County.

The COURT: Is this writ directed to the sheriff of Stevens County? There must have been two writs, if it is in different counties.

Mr. BIRDSEYE: I assume there is, but there is nothing on record to show that.

The COURT: Who made the return on that writ?

Mr. BIRDSEYE: The sheriff of Spokane County.

The COURT: He could not levy on property in Stevens County.

Mr. LUND: I can show you my abstract, the abstract of the levy, that was in Stevens County.

Mr. BIRDSEYE: That is shown by this record.

Mr. LUND: This abstract there, is the writ of July 22d, 1910; that is against real estate here.

The COURT: Is there any record of the writ of attachment directed to the sheriff of Stevens County?

Mr. BIRDSEYE: I think not.

(Testimony of James P. Hanley.)

The COURT: The sheriff never made a return?

Mr. BIRDSEYE: Never made a return.

Q. There being no record evidence of the attachment in Stevens County, tell the Court whether any of your property was levied upon in Stevens County by the sheriff of that county, under this attachment?

A. Yes, sir; they levied on everything up there, and put deputies in charge.

Q. Who put them?

Mr. LUND: We will concede a writ of attachment was issued out of this county, directed to the sheriff of Stevens County, and that under that writ he levied on everything that Hanley had up there.

Mr. BIRDSEYE: In Stevens County?

Mr. LUND: In Stevens County, after the 23d or 24th of July; I can get you the exact date.

The COURT: Is the particular date material?

Mr. BIRDSEYE: Only showing it was considerably subsequent to the transfer to the son.

The WITNESS: About the 24th.

The COURT: It was admitted very soon after the deed was made?

Mr. BIRDSEYE: Yes, probably, the 22d or 24th of July, 1910.

The WITNESS: Yes, sir; they sent them up Monday to close up everything, and I think it was on Tuesday I met him at Marcus, coming down on the train. Now that attachment covered all of my and my wife's property in Spokane County and Stevens County both, all of our property. Now, before that attachment, I

(Testimony of James P. Hanley.)

never had any financial difficulty before that. None of my creditors were pressing me before this attachment. My wife and myself were not served with the summons and complaint in that suit, I don't think.

Mr. LUND: Oh, yes.

Mr. BIRDSEYE: That is conceded.

Mr. LUND: They were served with summons.

The WITNESS: I was served with the papers. This attachment of the Crescent Lumber Company shut everything down, and it made creditors suspicious, but there was not any of them pressed me afterwards; we was to start up again, had everything nearly fixed to start up again, and the creditors that I owed at that time has told me since that at any time I wanted to start, anything they had, I could come and get it. This attachment was levied on the 24th of July, or about that time; the bank did nothing to enforce its claim; all they wanted was the mortgage to protect themselves for the balance of the unsecured claim. I was forced into bankruptcy through the agreement with Mr. Lund, wanted us to sign up; he wanted my boys to relinquish all claim to their back pay, and he wanted my son and my wife to give him a blanket mortgage on the property, and he wanted a mortgage on everything; they had no mortgage on the steamboat or on the stock, and he wanted a blanket mortgage on all of that, and before this was fixed up, this was after we had everything fixed up for me to start running again, I went up and sold the mill and got the man's notes for two thousand dollars and turned them into the bank.

(Testimony of James P. Hanley.)

Q. What mill do you mean?

A. Deer Park, and this five or six hundred dollars was coming on this lot over here, that was to be turned into the bank for me to start running on. The Crescent Lumber Company agreed to reduce their debt to seven thousand dollars and to take it in lumber at different times, and to pay for what cars I had shipped them; then this agreement—that agreement did not go through; after he fixed up his agreement for me to sign, he wanted me to pay \$11,400 the first year. I never did enter into that agreement, never signed it up. The beginning of my financial trouble was this suit with the Crescent Lumber Company.

Q. When did you go into bankruptcy?

A. On the 26th of August.

The COURT: That is admitted.

The WITNESS: This property of my wife in Lidgerwood, that has been the homestead of the families for a good while. That was acquired by my wife's money.

The COURT: What is the value of that property? Was that their homestead at the time of the transfer?

Mr. BIRDSEYE: Yes.

Mr. LUND: I don't know that I ought to testify, but the fact of the matter is that they were living at Northport, and transferred this property to their daughter and afterwards she retransferred it and claimed a homestead on it, and moved into it. That will be shown before we get through.

(Testimony of James P. Hanley.)

The WITNESS: I can't tell you the exact value of the homestead of my wife in Lidgerwood at the present time, or at that time, because she bought it seven years ago. This transfer of this Lidgerwood property to my daughter, I think was in July, 1910. The circumstances of that conveyance were, the land was a tax title lot, and she conveyed it to have it conveyed back, to make the title stronger to the property, the tax title lot; only paid \$150 for it. I don't remember how long after it was conveyed to my daughter Katy that it was conveyed back to her mother, my wife. I can't give the Court any idea how long it was; probably a week; maybe two weeks.

Q. Give us the date, your best judgment as to the time it was conveyed to your daughter?

The COURT: If the date is material, you have it there in the record.

Mr. LUND: I have the date, if you want it. The deed is acknowledged July 3, 1910, acknowledged before Sheedy at Northport, as I recollect it.

Mr. BIRDSEYE: Some sixty days after the conveyance to the son.

Mr. LUND: Reconveyed before he filed the petition in bankruptcy, and it was claimed in the petition as exempt. It is not referred to, it is claimed as separate property.

A. There was no financial trouble brewing that I knew of at the time that deed was made to my daughter. It was not in any way made on account of claims of my creditors, or to keep the property away from my cred-

(Testimony of James P. Hanley.)

itors. The purpose of it was to pass it through the hands of a third party on account of it being a tax title, and within two weeks it was conveyed back to my wife. It was claimed as a homestead by her and she and her family lived there. That property has not come into the bankruptcy proceeding at all.

Q. Now, Mr. Lund asked you about a conveyance of certain personal property to your son. When was that bill of sale made?

The COURT: Just prior to the attachment.

A. That was the time that Mr. Smith and Mr. Irish came up to Northport. They were down here, and Mr. Irish told me at that time about getting attachments out. That was a transfer of certain personal property, made by a bill of sale to my son James. He turned it over to Mr. Turner. Turner was one of my creditors. I could not give you the value of that property offhand.

Q. Give us your best judgment; was it more than the claim that Turner held against them?

A. I am not positive; I don't think it did; I don't think it covered the claim.

Q. Then, if I understand you, this chattel property that you conveyed to James and he to Turner, of the Northport Trading Company, was less in value, or not more, at least, than you owed the Trading Company at that time?

A. I believe so; I am not positive. Turner was the manager or officer of that company. I disremember how long Turner held it, but they had it all turned back into the bankruptcy, when I filed a petition in bankruptcy.

(Testimony of James P. Hanley.)

It was all transferred back to me before I filed my petition in bankruptcy. So my creditors were not deprived of any of that; it was all put back in the bankruptcy proceedings. In making that transfer, it was my intention to protect him as a creditor.

Q. Did you have any intention of cheating or defrauding and delaying your creditors?

A. No, sir.

Q. Or putting that by for yourself?

A. No, sir; it was under the advice of Mr. Smith, that came up there, the attorney, that I done it. Mr. Smith came up there, the attorney for the bank, him and Mr. Irish, the cashier. I don't know whether that is Mr. Maurice Smith, attorney, of this city; I don't remember what his first name is. He is a member of the firm of Gallagher, Smith & Mack. My intention in conveying this property to my son James was to protect Mr. Turner in his debt that I owed him.

Q. No, I mean the Spokane property in this suit, these four lots?

The COURT: He testified it was for the purpose of making a sale some time ago.

The WITNESS: In conveying these lots to my son James I had no intention of being in any financial difficulty at that time, and he wanted them for a woodyard, to run a woodyard there in the winter time, as he always had to be idle in the winter time.

Q. You answered Mr. Lund something about valuing the four Spokane lots in this suit at four thousand

(Testimony of James P. Hanley.)

dollars, on account of a railroad running somewhere. What is the fact about that?

A. It was the proposed road coming through; they bought all of the property through Lidgerwood on one street, and there was not anybody knowing where the Burlington road was coming over to join the Great Northern, to come through there, and the supposition was it would come through about where those lots were, to come up in through to Lidgerwood.

The COURT: They sell it for an advanced rate to a railroad company. That is a fact here in Spokane; I can take judicial notice of it, I think.

The WITNESS: This value of four thousand dollars was placed on those lots with reference to that state of affairs. I could not tell you how much my mother received for the sale of her timber on her homestead, approximately, it has been so long ago.

The COURT: He has been interrogated fully as to all of those matters, and has given the best recollection he has on the subject.

The WITNESS: The particular reason my mother had for keeping her money hid away, rather than in a bank, was, when she had her money out of the bank in St. Louis, there was a bank, or there was several banks failed, and people lost their money in them, and she took hers out and had to lose six per cent on that, besides losing the interest she had coming on it. I don't know what my mother sold her St. Louis property for. I don't know the amount of money she took out of the St. Louis bank at that time; she had about twenty-five

(Testimony of James P. Hanley.)

hundred dollars altogether; that is, after selling her property; that is the money she had taken out, and what she sold her property for after she came out here. The special reason my mother had for leaving money to my son James, he had stayed with her since he was three or four years old until she died.

Mr. LUND: This is calling for the opinion of the witness. It is his own idea as to why she did it, if she did leave it.

The COURT: I don't think that is material.

REDIRECT EXAMINATION.

Q. Are you aware of the fact, Mr. Hanley, that your wife signed this agreement with the Crescent Lumber Company, and was liable for that indebtedness?

Mr. BIRDSEYE: I object, unless it appears more definitely what the agreement is.

Mr. LUND: Your Honor will notice this record has a copy of the agreement set up. I wanted to call Your Honor's attention to it.

The COURT: That will be a question of law, rather than for this witness to testify to.

Mr. LUND: That was leading up to another question.

Q. And you and Mrs. Hanley were living at Northport and had been for some time prior to this attachment?

A. Yes, sir.

Q. And that is why you transferred this Lidgerwood property, the old home place as you call it, to your

(Testimony of James P. Hanley.)

daughter, to get it out of your names, because your wife was liable on some of this indebtedness?

A. There was not any attachment at this time.

Q. No, but I say you were anticipating something?

A. No, sir.

Q. And that is why you transferred it?

A. No, sir; I never anticipated anything until the company came up there with their attorney; no doubt you know that.

Q. You transferred it simply for the purpose of helping the tax title?

A. No, sir; you know that well.

Q. Now, in this statement that you made here, Mr. Hanley, you listed property in Lidgerwood that you claimed belonged to your wife, at four thousand dollars—don't you?

A. If it is on the statement, I do, yes, sir.

Q. That was no part of your assets?

A. Well, I probably did not know any different when I put it in there, if that is the case.

Q. And you list these four lots over here at two thousand dollars. Now, as a matter of fact you made a subsequent statement in which you listed those four lots at four thousand dollars to your creditors, didn't you?

A. Listed them to the creditors?

Q. Yes, sir; gave a statement to the bank?

Mr. BIRDSEYE: I object, unless it is shown to be about the time of the execution of this deed.

(Testimony of Katherine Hanley.)

The COURT: I think he testified to that on his direct examination, stated the reason for it.

Mr. LUND: He stated that was the reason he he placed the value on them.

The COURT: I think he admitted he made the statement, also.

Mr. LUND: Perhaps so.

Witness excused.

KATHERINE HANLEY, sworn on behalf of complainant, testified:

DIRECT EXAMINATION.

My name is Katherine Hanley. I am the wife of James P., who has just testified. I joined in the execution of this deed to my son James. At the time that I signed it I was in Colville, Washington. I had not had any talk with my son James before that was signed. I knew why it was being made out; I knew the boy wanted to buy lots of his father. I saw some money paid over, it was paid right in the house at Northport. He had the money in his own possession. I could not tell you where he took it from. It might be he took it from his trunk, for I don't know where he took it. I testified before that he got this money from his grandmother; she gave him the money and when he was twenty-one years old, I gave him his money. I got twenty-five hundred dollars from his grandma for the boy. I got it in Northport, after we moved from Deer Park.

Q. When did you get it from his grandma?

A. I got it at Deer Park, just a few days before she died.

Q. How much money did she turn over to you?

(Testimony of Katherine Hanley.)

A. She turned over twenty-five hundred dollars to the boy.

Q. I thought she turned it over to you?

A. She turned it over to me to keep until he was twenty-one years of age. I don't remember how old he was at that time.

The COURT: When did the grandmother die?

A. About six years ago, as near as I can remember it.

Mr. BIRDSEYE: Mr. Hanley testified it was in 1904.

The COURT: Q. How old is your son now?

A. He is going on twenty-four, or twenty-four his last birthday. He was about sixteen years old, or thereabouts, at the time his grandmother died. I kept this money, the grandmother requested it kept. While we lived in Deer Park, I lived right in the office and took my meals in the dining room, and at the mill I had this money right up to the rafters, in the side of the building. It was gold; there was some paper bills. I never kept particular account of it to see how much paper there was, but there was gold and paper.

Q. Where did his grandmother take the money from to give it to you?

A. Well, grandma always kept her money hid away after she came to this country.

Q. Where did she give it to you?

A. She never told me where she kept it hid.

Q. Where did she give it to you?

A. Right in Deer Park, at the mill where we lived, a

(Testimony of Katherine Hanley.)

few days before she died. She died out at the mill. I kept it in the rafters of the office until we moved to Northport. I don't know just how long we lived there; while we were there I had it stored away in the rafters. I disremember whether we lived there a year or two years, until Mr. Hanley moved. We moved to Spokane from Deer Park, from the mill, after she died. I carried this money with me out to Lidgerwood. Out there I kept it in the basement, after it was finished. We lived in the barn, until the house was finished in Lidgerwood. I kept it under the floor, buried in the box, as I told you, buried in a small box.

Q. Did you have any other money besides that?

Mr. BIRDSEYE: I object to the other money.

The COURT: Yes, to test her recollections, for no other purpose.

The WITNESS: I had other money that I kept for her. I disremember how much, but I had probably—I can't tell you exactly how much; I had some money that my grandmother had left to my oldest daughter.

Q. How much?

Mr. BIRDSEYE: I object to this; it takes time.

The COURT: The amount of money she kept there might have some bearing on the property of the boys. Objection overruled.

The WITNESS: Well, I had twenty-two hundred dollars for my daughter, and I had also my own money. I kept it all buried under the floor. When I went to Northport I took this money with me and gave it to my son and daughter. I turned it over to my son and

(Testimony of Katherine Hanley.)

daughter when they became of age. When he was twenty-one years old I handed it to him, in the evening. I took it out of the basement in Northport, where I had it buried, in an old sack that the grandma had left it in. That was in the house up at Northport, in the smaller house. I delivered it to him on his birthday, right in our dining room. I never kept any track of it after that. I hardly know what he did with it; since my husband has lost what he had my boy has kept me and my six little children. I don't know what he did with this twenty-five hundred dollars, outside of what he gave me. He has bought clothes with it; in different ways; he has given his little sisters money. He invested, to my knowledge, fifteen hundred dollars of this in those lots. That is all the investments he ever made that I can remember. I am not positive whether he ever kept a bank account or not. I couldn't tell you how much the boy had in the Northport State Bank.

Q. You know he had a bank account there?

A. Perhaps he did.

Q. You know that, don't you?

A. Perhaps he has got a bank account now, for all I know.

Q. Don't you know that he had a bank account there?

A. I can't tell you how much he had in the bank; he kept a bank account, yes sir. I suppose he kept a bank account during the last year that my husband was in business up there. He never told me that he had that money in the bank, because I never asked the boy.

(Testimony of Katherine Hanley.)

Q. You never asked him a single question about his money from the time you handed it over to him in cash?

A. He has always been with us, right at home, and I never asked the boy. I and Mr. Hanley never inquired into his money matters, no, and what he had done with this money, at any time.

Q. Did you ever inquire into it, to ascertain what your daughter did with the money you turned over to her?

Mr. BIRDSEYE: I object; nothing to do with this.

Objection sustained.

Complainant excepts and exception allowed.

Q. You never saw the money or any part of it, after that?

Mr. BIRDSEYE: I object to testimony about her daughter's money.

Mr. LUND: I mean, money that you claimed to have turned over to him.

A. Yes, sir; as I told you, he has kept me since his father has lost everything he had, he has helped to keep me.

Q. You don't know where he got the money for that, do you?

A. It was what money his grandmother had left him, some of it. I know that, because he told me so. That is the only information I have about it. He has not been working all of these years; he has not worked very much since his father lost everything. He always worked while they were working at the mill, but not

(Testimony of Katherine Hanley.)

steady. I don't know whether he drew his pay regularly; I knew nothing about the sawmill business.

CROSS-EXAMINATION.

The WITNESS: I don't know that James did not draw any pay from his father for the last year or so that he worked for him; I know nothing about their mill affairs; that is something I never bothered with. I have heard it discussed between them.

Mr. LUND: Wait a moment; I object.

Objection sustained.

The WITNESS: I say I know James had a bank book at Northport, I know it because I saw his bank books, his checks. I don't know whether that bank book included all the money that he might have; I don't know how much he had at all.

Mr. LUND: I want to ask you, Mr. Birdseye, to have Mr. Hanley produce his bank book and his canceled checks with the Northport State Bank.

Mr. BIRDSEYE: Which one?

Mr. LUND: The young man there.

The WITNESS: With reference to deeding this property to my son James, I signed that deed. The circumstances of the deeding of that property to him on the 2d of May, two years ago, he wanted to start a woodyard with it. I heard the matter talked over between him and his father. I know the price of fifteen hundred dollars was agreed upon for the property. James and his father had been talking about Jim buying that property, I think it had been a year, as near as my knowledge goes; the boy had wanted— These lots

(Testimony of Katherine Hanley.)

were on a spur railroad here in Spokane, in the lumber part of the city. I heard no talk as to why Mr. Hanley wanted to sell the lots to him.

Q. When did you first begin to hear that there was trouble about your husband's business

Mr. LUND: I object, as immaterial. We did not go into it.

The COURT: It is not proper cross-examination. I sustain the objection.

Mr. BIRDSEYE: Q. Do you know what Mr. Hanley's intention was in selling these lots and deeding them to Jim

Mr. LUND: I object to that; it is pretty hard for her to tell it.

The COURT: I will sustain the objection. She has stated what she said and did. She has no other means of ascertaining his intentions, that I know of.

The WITNESS: I could not tell you what my husband did with that fifteen hundred dollars, whether he used it in his business or something else. I said that I kept the money which Jimmie's grandmother entrusted to me for him, until he should become of age, as she told me to. I mean by that, I kept it in a little sack in the box she gave it to me in. She instructed me, when she gave it to me, that the boy was not going to have it until he was of age; that I was to keep it in my possession; that the money was to be buried as she had it. She never told me where she kept her money until she gave it to me. At the time she gave me this money for James she gave me no reason for it; my son was always good

(Testimony of Katherine Hanley.)

to her and had lived with her, and cut her wood, and made her fires and taken care of her. At her death she left as relatives my oldest daughter; she had no relatives living at all. My husband was her son.

REDIRECT EXAMINATION.

The WITNESS: The grandmother left no will and her estate was never probated in this county, or anywhere else.

RECROSS-EXAMINATION.

The WITNESS: She left no real estate, no land; she sold all her real estate before she died. She had no land when she died and all she left was personal property.

Witness excused.

Thereupon a recess was taken until 2 o'clock p. m.

Trial resumed 2 o'clock p. m., January 4, 1911.

Mr. LUND: If Your Honor please, it was agreed between Mr. Birdseye and myself this morning that he would waive proof of the qualification of the trustee. I don't know whether Your Honor heard that or not.

The COURT: Yes, sir.

Mr. LUND: I want to offer in evidence certified copy of this deed from James P. Hanley and wife to James M. Hanley, the defendant, for the purpose of showing the title of record.

The COURT: For the purpose of showing the title, without encumbering the record with the deed, if counsel will stipulate as to the date on which it was recorded, I will take that.

(Testimony of Katherine Hanley.)

Mr. LUND: It is admitted in the pleadings that it was recorded at a particular place, but I find I did not allege the time it was recorded.

Mr. BIRDSEYE: I object to that. I think if we were to be charged with fraud for delay in recording the instrument, we should be advised of that; there is no pleading or any issue in the case in any way on that.

The COURT: It is not necessary that the parties should plead all of the circumstances relating to the deed. They charge the deed was fraudulent. This is merely a circumstance tending to prove that fact, like a great many other circumstances.

Mr. BIRDSEYE: I think if they relied upon delay in recording, they ought to have advised us of that, so we might be prepared to meet it and know what we were to meet.

Objection overruled.

Mr. LUND: Will you stipulate into the record the deed was filed for record——

Mr. BIRDSEYE: Certified copy from the Auditor's office shows that?

Mr. LUND: Yes, sir, certified under the seal of the auditor; filed for record in the office of the Auditor of Spokane County on the 18th day of July, 1910, at 12:50 p. m., at the request of James P. Hanley, and recorded on page 264 of Book "D" of Deeds.

Mr. BIRDSEYE: I will admit the record shows what he has read.

The COURT: Is that the grantor in the deed, or the grantee?

Mr. LUND: That is the father.

(Testimony of O. F. Kelly.)

O. F. KELLY, sworn on behalf of complainant, testified:

DIRECT EXAMINATION.

My name is O. F. Kelly. I reside at Deer Park; I have lived in Deer Park about twenty-two years. I am president of the First State Bank and also run a mercantile business there. I became president of the First State Bank in 1909. My father was president before me and started the bank, and I succeeded to his position when he died. Mr. Irish, the cashier of the bank, had charge of the bank. I gave very little attention to the details of the business. I did not learn of the amount of the loan that had been obtained by Mr. Hanley from the bank until at the time the Crescent Lumber Company started their proceedings against Hanley. After learning of the fact and after this attachment was laid, myself and others interested in the bank had several conferences with Mr. Hanley, in reference to his affairs here in Spokane. I think the first conference was in your (Mr. Lund's) office. There was present Mr. Hanley, I believe, and John Hanley and myself, Mr. Olson, and I believe Mr. Danson was there, Mr. Hanley's attorney at that time.

Q. Mr. R. J. Danson, of this city?

A. Yes, sir. I remember Mr. T. B. Moore, of the Crescent Lumber Company, and Mr. B. H. Kizer, his attorney, they were present also. I remember the occasion of a meeting at your (Mr. Lund's) office, along about the 26th or 27th of July of 1910, when the sub-

(Testimony of O. F. Kelly.)

ject of the conveyance of these four lots, the house and lot in Lidgerwood, was mentioned, and the bill of sale that had been given by Mr. Hanley to his son was brought up. The way the matter came up was, if I remember right, we were talking and trying to get a line-up on Mr. Hanley's debts, to see how the thing would work out, if there was any possible way to work it out.

Q. Do you recall my asking him the specific question, Mr. Kelly, in the presence of these gentlemen, as to why he had made these transfers, and whether or not there was any consideration for them?

Mr. BIRDSEYE: Which Hanley, James P.?

Mr. LUND: Yes.

Mr. BIRDSEYE: Unless made in the presence of the defendant here, I object. James P. Hanley is not a party to the record. If he was a party, it might be competent.

The COURT: In an equity case, the Federal Judge sits merely as a commissioner to take the testimony, and he is not supposed to exclude testimony, or to exercise the ordinary function that he does in a law case. For that reason, I will allow your question and overrule the objection.

A. He said he transferred those lots to Jim, or to his son, in order to bring the Crescent Lumber Company to time, if I remember right, there was no consideration at all. He stated that there was no consideration passed from Jim's hands to him for that transfer; that is what he stated up there in the office.

(Testimony of O. F. Kelly.)

Q. I will ask you what, if anything, his attorney, Mr. Danson, said to him when he learned of the fact that he had made these transfers on that occasion?

Mr. BIRDSEYE: I object to that.

The COURT: I will sustain the objection to that.

The WITNESS: I recall having other conferences with Mr. Hanley and his sons, with reference to his affairs, and in an endeavor to adjust the bank's matters and, if possible, permit him to continue the business. Those conferences were, I think, in the latter part of August, if I remember right, we had a meeting, I think it was in Mr. Danson's office.

Q. You mean July, don't you

A. Latter part of July, in Mr. Danson's office, and some talk in regard to what was owing to wages, and one of the boys said——

Mr. BIRDSEYE: I object to what the boy said.

Mr. LUND: In reference to this transfer.

The COURT: It will probably save time, if you will direct his attention more specifically to the statement, Mr. Lund.

The WITNESS: I remember about our arriving at the tentative agreement with Mr. Hanley with reference to settling the claim of the Crescent Lumber Company, and that we met in Mr. Will G. Graves' office, in the Fernwell Building. I remember that Mr. Graves had prepared an agreement, which Mr. Hanley had agreed to sign. I remember that occasion. I remember of Mr. James Hanley, this young man, being present, and J. P. Hanley, his father.

(Testimony of O. F. Kelly.)

Q. And directing Mr. Moore and myself to go down and take up the deed to this lot that was at Broberg & Schuler's office and pay the balance?

A. Yes, I remember that.

Q. Do you recall what the arrangement was that Mr. Hanley had agreed to make in reference to settlement?

Mr. BIRDSEYE: I object, unless it was consummated. If it was simply a matter that was negotiated, not executed or executed.

Mr. LUND: It goes to show the dealings of those parties with reference to this property.

Mr. BIRDSEYE: Furthermore, if it was reduced to writing, that would be the best evidence of it.

The COURT: So far as any written agreement is concerned, of course the document itself would be the best and only competent evidence.

Mr. BIRDSEYE: The agreement was never executed or signed.

Mr. LUND: It was never executed nor signed; I am directing his attention to conversations that led up to it.

The COURT: You may answer.

A. The agreement was, if I remember, that Mr. Hanley was to reduce the indebtedness.

Mr. BIRDSEYE: I object to that; I don't think that is within the scope of the question.

The COURT: Not what the agreement was, because there was no agreement entered into; any of the statements which were made by Mr. Hanley would be competent.

(Testimony of O. F. Kelly.)

Mr. LUND: It was only oral, if he agreed to make any reduction in the indebtedness.

Mr. BIRDSEYE: In the presence of the defendant?

Mr. LUND: Yes, sir.

The WITNESS: They were to take up the balance or there was a balance of fifty dollars on those lots, and Mr. Moore went down to the office of Broberg & Schuler, I believe it is, is it not, and paid up the balance on those lots, and Mr. Hanley was to reduce the indebtedness to the Crescent Lumber Company, and I think it was six thousand dollars; I am not sure those were the exact figures; and in turn Hanley was to give them security on the house and lots out here for the balance of the six thousand.

The COURT: In whose behalf did Moore take up the deed?

A. Mr. Hanley's.

Q. What, if anything, was to be done in reference to to crediting on this six thousand dollars the value of certain lumber that had already been shipped and for which they had not accounted, do you recall?

A. If I remember, they were to go up there and go to work. They were to ship so many cars of lumber, and that the Crescent Lumber Company was to pay the First State Bank a thousand dollars, I believe, on the indebtedness; was to deposit a thousand dollars to the credit of Hanley in the First State Bank and apply the balance of those four cars of lumber on this six thousand dollars.

(Testimony of O. F. Kelly.)

Q. This thousand dollars was to be used for what purpose by Mr. Hanley, if that arrangement was carried out?

Mr. BIRDSEYE: I object; it was an unexecuted agreement, merely a discussion; it never went to a meeting of the minds.

The COURT: I will sustain the objection, unless it was something that Mr. Hanley said in regard to this particular property; general negotiations would not be material; I think it is too remote.

Mr. LUND: I am trying to show he was dealing as though he was the owner of this property.

The COURT: You can prove any statement he made as to this particular property, but as to general dealings outside of that, the general dealing is too remote, I think.

The WITNESS: He said he was willing to give a mortgage upon these four lots, James P. Hanley did, to the Crescent Lumber Company.

Q. When did he object, or when did it fall through, if you can state?

Mr. BIRDSEYE: I object, as calling for the conclusion of the witness. If he can state the conversation, the court can draw the conclusion.

The Court: I think that is bringing in elements here that are not material, unless it had something to do with this particular property.

Complainants excepts and exception allowed.

The WITNESS: I remember in these conferences that were had with Mr. Hanley about discussing the value of his property, about his discussing it.

(Testimony of O. F. Kelly.)

Q. What did he say was the value of his property up there?

Mr. BIRDSEYE: I object as indefinite in time, and being very remote from the execution of the deed in question.

Mr. LUND: He has already testified the property was of the same value at the time he made this.

The Court: Yes, he has testified the property was of the same value, covering all of this period. You may answer.

The WITNESS: As to the value of the property up there?

Q. Yes.

The COURT: This was in July, I understand.

Mr. LUND: Yes, latter part of July.

Objection overruled.

A. He said the mill and land up there, was worth, if I remember right, about twenty thousand dollars, and said if it was to be sold, why, he did not think you could realize over fifteen thousand dollars on it. In reference to his ability to have paid his debts, if he had been forced to pay according to the terms of his obligations, he said he could not pay out. I have lived up about Deer Park for quite a time. I was not personally acquainted with Mrs. Hanley, the mother of J. P. Hanley; I have seen her around there a good many times. I know she lived in a small house back of the residence that the Hanleys lived in, Hanley's folks and himself, a one roomed shack, used for a chicken coop at one time. I never had any con-

(Testimony of O. F. Kelly.)

versation with Hanley at any time in reference to whether or not he was supporting her.

Q. What was the general reputation of Mrs. Julia Hanley, that is, the grandmother, as to being a person of means, if you know, general reputation?

Mr. BIRDSEYE: I object as incompetent and inadmissible.

The COURT: I am inclined to agree with you. He may answer for the reason stated a while ago.

A. Well, from what I always learned of her, she had to depend on Hanley for everything that she got.

Mr. BIRDSEYE: I move that in view of the answer, it be stricken as inadmissible and incompetent, so far as he learned.

The COURT: I will reserve my ruling until the final decision of the case.

CROSS EXAMINATION.

The WITNESS: Yes, I say the old lady lived in what was formerly a chicken coop. It had been improved very little, to render it habitable. As to whether it was a fit habitation for a person to live in, I don't know as I would care to live in it myself. I can't state the size of the building. I have been in the building. It was not plastered. I don't know anything about the old lady being very eccentric and miserly and desiring to live that way. I was rather young at that time, only I have been in the building and was there and have seen the old lady. I never heard from general repute that she was miserly and inclined to live very meagerly and poorly; that was not the general talk. At one of our meetings,

(Testimony of O. F. Kelly.)

and I can't state just the date, in some of these conferences, Mr. Hanley stated that his mill at Northport was worth twenty thousand dollars, but if sold, might not bring that, as I stated. That was after the Crescent Lumber Company had started their proceedings. Yes, it was in an effort on the part of the bank and Mr. Hanley to secure some sort of a compromise with the Crescent Lumber Company, so he could go on and operate the plant. It was not at that time that he said his mill might not sell for twenty thousand dollars, it was attached and that his property was attached. At that time there was a mortgage on the mill. It was close to the latter part of July; I can't state the exact date.

The COURT: You know when the property was attached?

A. That the Crescent Lumber Company levied their attachment?

The COURT: Yes. You said a while ago, it was after these proceedings were commenced that you had a conversation with him. Was not the attachment levied very shortly afterwards, and before this matter was taken up?

A. Very shortly after, but I don't remember the exact date.

Q. Is it not a fact that you were trying to settle with the Crescent Lumber Company because they had attached everything, even the property that your bank had a mortgage on?

A. We tried to come to a settlement, all of us to-

(Testimony of O. F. Kelly.)

gether, the bank and the Crescent Lumber Company and Hanley.

Q. You did not talk settlement until after the Crescent Lumber Company had levied its attachment, did you?

A. They had not levied their attachment yet. I know it, because we talked of it up there in the hotel; we had a meeting one evening; they were getting ready, getting their papers out, and getting ready to do business. I am not quite sure now that they had not levied their attachment when Mr. Hanley stated that he did not know the mill would sell for twenty thousand dollars. I don't think it is a fact that the reason that he said that the occasion of his saying that was because everything was attached and all of his creditors were after him.

Q. When did you first become alarmed about your indebtedness, before or after the attachment of the Crescent Lumber Company?

The COURT: He said he didn't know anything about it until that time.

Q. Is it not a fact that you did not take up any negotiations with Mr. Hanley about securing this agreement or this mortgage, until after you had become alarmed about the attachment of the Crescent Lumber Company?

A. You mean the mortgage on the property at Northport?

Q. Yes.

A. The mill and such as that?

Q. Yes.

(Testimony of O. F. Kelly.)

A. I don't know; Mr. Irish took that up with him. I can't give you the exact date now, the first time when I began to take this matter up with Mr. Hanley. The cause of my starting in at that time to compromise, to settle the matter at that time, was for the simple reason that the Crescent Lumber Company was stepping in, we didn't know what they had coming, and didn't know how things stood, and we wanted to come to a settlement of some kind, to see how we were coming out. I had not been worried about Mr. Hanley's indebtedness before; I did not know of it.

Q. The officers of the company had not become alarmed or worried about it, as far as you know, until the Crescent Lumber Company began to step in, did they?

A. The facts of the case are, they did not know anything about it, about the loan, the size of the loan. You are to understand now that the officers of the bank did not know anything about the size of Mr. Hanley's loan from the bank.

Q. Now let us see if you can answer my question. Is it not a fact that you or the officers of the bank were not particularly concerned about your own indebtedness from Hanley, until the Crescent Lumber Company began to step in with its claim?

The COURT: This witness said he did not know what the indebtedness was prior to that time.

Mr. BIRDSEYE: That may be, but I want to see if he was pressing for it; he probably knew there was a debt of some kind.

(Testimony of O. F. Kelly.)

The COURT: He can answer the question.

A. Why, when the Crescent Lumber Company stepped in there with its claim, and was going to try to tie up things in there, of course we naturally got out to protect our own interests. Up to that time, we didn't know anything about it; did not have any interest to protect. My connection with the bank at that time was as president. I knew that Hanley had an account there. I knew he owed the bank several hundred dollars at that time. I didn't know that he owed the bank several thousand dollars. I did not know that our bank held Mr. Hanley's paper to the amount of something like twenty thousand dollars, approximately, then; didn't know anything about the size of the indebtedness. Yes, I was president of the bank. I told you that I don't remember the exact date I first learned Mr. Hanley was indebted to the bank in a very considerable sum of money. With reference to these conferences, that was in July and August that these meetings were had.

The COURT: Do you contend those conferences took place before the attachment, Mr. Lund?

Mr. LUND: They had a meeting before the attachment, in response to the bank examiner's notification to them about these loans.

Mr. BIRDSEYE: Is that any one of those conferences that you are referring to?

The COURT: That was just a meeting of the officers of the bank, was it?

Mr. LUND: Yes sir.

(Testimony of O. F. Kelly.)

The COURT: The conference at which Mr. Hanley was present took place after the attachment, didn't it?

Mr. LUND: Yes, sir.

Q. The question was, when, with reference to these conferences, did you first learn of Mr. Hanley's large indebtedness to the bank?

A. Which conference do you mean?

Q. That you have been testifying about.

The COURT: The conference at which Mr. Hanley was present.

A. It was after we learned of his indebtedness to the bank, that we had these meetings. When Hanley said the mill was worth twenty thousand dollars, I know he referred to the whole plant up there, and not simply to the sawmill; including all of the lands there, and also including the planing mill, but not including the lumber; it did not include the logs. The proposition was twenty thousand dollars for the real estate and the planing mill and the sawmill. That was made after this attachment, when everything was tied up. He said he didn't know as it would sell for twenty thousand dollars. I think all of Mr. Hanley's creditors were right after him then, as well as the bank. What kept him after them was those proceedings got up, got everybody alarmed that he was owing.

Q. What proceedings do you refer to?

The COURT: An attachment always starts creditors up, and the Court will take judicial notice of some things.

Mr. BIRDSEYE: Very good.

(Testimony of O. F. Kelly.)

The WITNESS: I am positive of the time Hanley said the mill was worth over twenty thousand dollars. I am positive that he said that at that time I referred to. There was present at that meeting Mr. Olson, Mr. Lund, Mr. Hanley and myself. I mean Mr. James P. Hanley, the bankrupt. I think Jimmie Hanley was there, yes. The place was Mr. Lund's office. That was at his old office in the Rookery Building, I think that is the building. I don't remember the exact date when Mr. Hanley said that he could not meet his obligations, if forced to; that was also in Mr. Lund's office. That was during one of those numerous conferences after the attachment. He said at that time he could not meet his obligations, if he he was forced to. It was also in Mr. Lund's office that Mr. James P. Hanley said that he had deeded this lot to his son Jimmie without any consideration and to bring the Crescent Lumber Company to time.

The COURT: Q. Was that at the same conference you testified to a moment ago, when you stated who were present?

A. No, this is a different meeting.

I had several conferences.

The COURT: I thought he had named the parties already. Go ahead and name the parties.

The WITNESS: Mr. Olson, myself, Mr. Hanley, Mr. Lund and Mr. Irish and I don't remember who else.

Q. And you saw him in Mr. Lund's office. Who else was there?

(Testimony of O. F. Kelly.)

A. Mr. Hanley's attorney, Danton.

Q. Who else was there?

A. I think Jim Hanley was present.

Q. You think Jim Hanley was there?

A. Yes, sir. I now testify that on that occasion James P. Hanley, now bankrupt, said that he had transferred this property to his son to bring the Crescent Lumber Company to time and without any consideration whatever. He came to say that because they got him in a corner and got to talking about it, and that is how it happened to come up, they got to talking about his debts. There, with all of our bank people and our lawyers, he said this. We did not have him mesmerized or under any kind of spell to make him talk that way.

Q. How did a man come to talk that way, against his interest, such talk as that, in the enemy's camp?

A. Well, it was of his own free will.

Mr. LUND: I object to that.

Objection sustained.

The WITNESS: I think I have answered the question before as to how this conversation came up. Well, we got to talking about the Crescent Lumber Company, and about their lumber, that they were going to try to get out of him, and he said that he deeded this property over to Jim to bring the Crescent Lumber Company to time. He did not explain how it was going to bring the Crescent Lumber Company to time, that I remember.

Q. Now, this deed to James was on the 2d of May,

(Testimony of O. F. Kelly.)

1910. When was it that Hanley made that statement, how long after that time?

The COURT: He fixed the time as the latter part of July.

The WITNESS: And he said, also, at that time, that James did not pay him anything. I don't know how he happened to make the remark; just the general talk we were talking there.

Q. Now, you say when Mr. Moore took up this deed, and paid this balance—of what?

A. I think it was fifty dollars; I am not quite sure about the amount, but they went down for the purpose of taking out the balance due on the property, on the lots. I am not certain who was present at that time. I would not be positive, I cannot say Jimmie Hanley, this young man, was there.

Q. Now, is not this the fact about that, that it was proposed that the young man, James M. Hanley, the defendant here, should make a mortgage of these lots to somebody, to the Crescent Lumber Company or to the bank; was not that one of the elements of that agreement talked over?

A. That he was to make a mortgage?

Q. Yes, sir, or was he to deed the property to James P. Hanley, his father, and he make a mortgage?

A. I think his father was to make the mortgage on the property. I don't know how he was to get the title to the property. I was not clear. I don't remember now that it was not talked that James M. Hanley, the defendant here, should put the mortgage on those lots.

(Testimony of O. F. Kelly.)

I told the Court, in response to a question from him, that Mr. Moore paid this balance on one of those lots for the elder Hanley. The reason I say that, the reason I state that, was because that was my understanding of it at the time we had the talk up there. I don't remember now at that time whether the title of the property was in Jimmie Hanley, the boy, and we didn't all understand it so. I said I was not certain whether the money Mr. Moore paid was in Jimmie's name or J. P.'s name, the old gentleman; the old gentleman was to give a mortgage on these lots.

Q. How was he to give a mortgage unless he had title to it?

The COURT: I don't attribute any importance to that fact. I wanted to know whether he represented the Hanleys or the bank.

The WITNESS: This agreement never went through. That agreement contemplated a mortgage upon the homestead and all of the property, the relinquishments of the liens of the Hanley boys; I am not clear whether a mortgage from Jim Hanley on these lots was also in the agreement; I don't remember.

REDIRECT EXAMINATION.

Q. To refresh your recollections, about the time when you learned of this large indebtedness of Hanley's to the bank, did not the bank examiner come along there, about the middle of July, or thereabouts, just before this attachment was levied?

A. It was some time in July, I know, that he came along, give us a jogging up and called our attention to

(Testimony of Louis Olson.)

it, I don't remember when. That was the first time I learned of the indebtedness. Mr. Irish immediately called Mr. Hanley down from Northport and had a conference with him at Deer Park.

Q. And as a matter of fact, just as soon as——

Mr. BIRDSEYE: I object, as leading. He can ask him to state what was done at that time.

The COURT: The objection is sustained as leading.

The WITNESS: When I learned of the amount of the indebtedness of Hanley to the bank, I became exercised over it. I did not consider him good for it. That is true of the other directors of the bank, who did not pay any attention to their duties.

Mr. BIRDSEYE: I object to his speaking for the other directors.

The COURT: The other directors are of no avail here. I sustain the objection.

Witness excused.

LOUIS OLSON, sworn on behalf of complainant, testified:

DIRECT EXAMINATION.

The WITNESS: My name is Louis Olson. I reside at Deer Park, right in town; I have lived there about a year and a half; I lived in the country twenty-three years, twenty-four next spring. I was one of the directors of the State Bank of Deer Park; I was in until this thing happened, from the time that it was organized, after Pete Kelly died, I was president of it and filled his term out, and after the new year Mr. Kelly got elected president and I was vice-president. As a di-

(Testimony of Louis Olson.)

rector of the bank, I did not know of this indebtedness of Hanley at the start, but it was some time in February that there was something kind of came up, and it was one evening in the store that Will Irish came to the store and asked me if I——

Mr. BIRDSEYE: I object as hearsay.

Q. I just wanted to get the time. What did you do in reference to the matter?

A. When I found it out, I told Will the best thing for him to do, that is, Irish——

Mr. BIRDSEYE: I object. He can state what was done.

The WITNESS: I told Irish to go and see what he had up there, that was the idea, as security.

Q. Now, later, did the bank examiner come along there?

A. That was along the first part of the summer. He told—Will Irish was not there at the time when the bank examiner was there, the first time, but he told Mr. Berg and also my bookkeeper, who was in the store, to tell Will Irish——

Mr. BIRDSEYE: I object, as hearsay.

The WITNESS: Coming down to the time when I and Mr. Kelly had a meeting with Mr. Hanley, I remember it was in your (Mr. Lund's) office, some time in July, probably the 25th or something like that, I could not remember the date; it was along there. I can state all that I know were present. I was there, Mr. Kelly and you (Mr. Lund) and Mr. Irish, Mr. Moore was there also, Mr. Hanley, old man Hanley, and I

(Testimony of Louis Olson.)

think his—I can't remember that I saw Jim there at any time.

Q. What, if anything, did J. P. Hanley acknowledge about why he made these deeds to his children?

Mr. BIRDSEYE: I object, unless in the presence of the defendant. James P. Hanley is not a party to this record.

The COURT: I will make the same ruling that I did awhile ago; confine it to this particular property.

Mr. LUND: Yes, to those four lots.

The WITNESS: He said he done it to get the Crescent Lumber Company to come to terms. I don't remember what, if anything, he said about any money having been paid for the transfers; I could not remember it; I don't remember what he said. Mr. Hanley said the mill and the ground was worth twenty thousand dollars. He did not say it could be sold for that; he said he didn't know, probably for not more than fifteen thousand dollars. He said he did not think he could pay up all of the creditors in full; that was figured out right there, that he could not.

Q. That is, he figured out the value of the property and the amount of his debts?

A. We all were figuring on it; of course, we did, the way we were figuring out, it was something like thirty-five or thirty-six thousand dollars and he figured also what he had would only amount to forty thousand and his properties would come only to about thirty-six thousand dollars, according to his own figures. I attended one more meeting, and that is about all I did

(Testimony of Louis Olson.)

attend. That was at the meeting at Danson's office. I don't think that was the next day; I think that was another time that we came down. It must have been later on that something was said with reference to the deeds, because I was not here. I was not present in Mr. Will Graves' office at the time. All that I heard about that deed, was after they came back home, Mr. Kelly and Will Irish.

CROSS-EXAMINATION.

The WITNESS: These conferences where this talk was had, was after the Crescent Lumber Company attached Hanley's property. I don't know whether that was the same time that he said he could not pay his debts, could not pay out or not; probably I was here three times; I think we was twice in your (Mr. Birdseye's) office. Whatever he did say, that was after the attachment of the Crescent Lumber Company. I say we were all figuring up the value of his property. I don't know who put the figures on the property; he gave the value, I think, himself, and they were set down. He gave twenty thousand dollars for the value of the mill and the land. I don't know how they figured for the value of the lumber; I think he said something about fourteen hundred thousand feet of lumber; I don't know how much per thousand; I don't know how that figured out; somebody got a better head than I to figure it. I don't know anything about whether he reported having one million seven hundred thousand feet of lumber.

The COURT: One million four hundred thousand is what he testified to himself.

(Testimony of Louis Olson.)

The WITNESS: One million four hundred thousand is what he said. I heard today, I did not hear at that time, that he reported it as of a value of seventeen to twenty dollars a thousand.

Q. What value did he put on it that time?

A. He could not have sold the lumber at that time at that price; you know it and I know it; he could not sell it at all when it was attached. I can't remember figuring up the value of the property, what value was put on the one million four hundred thousand feet of lumber; we figured in round figures. When I say it made the value of the property figure up to thirty-five or thirty-six thousand dollars, I think the one million four hundred thousand feet of lumber was included in that; I think everything there was included, but I don't know the price per thousand. I don't know how they figured it; all that I knew was that they figured it out, that is all I have got to go by. I don't think his sawlogs on the other side of the Columbia River were figured in there. Yes, they were figured in, of course they were, but I don't think they were figured in in the twenty thousand dollars for the mill, that is what I mean. I can't remember how many sawlogs he reported over there; it seems to me like I heard something like one million and a half; I think it was something like five dollars valuation that he put on those sawlogs.

Q. And you figured this all in together and made it about thirty-six thousand dollars?

A. I don't know that these were his figures.

Q. What did you make his debts?

(Testimony of Louis Olson.)

A. About forty thousand dollars.

Q. You made the debts a little more than his property?

A. Yes, and I think he was owing it, too. I could not say whether it was at the first or second one of these meetings that Mr. Hanley said he had conveyed the property to his son James to bring the Crescent Lumber Company to time, but I am pretty sure he said that; it is pretty hard to remember a year and a half back. There was present the same men as I said a little while ago, that is, me and Mr. Carey and Mr. Lund and Mr. Kizer, Mr. Hanley, Mr. Moore, and I think there was probably one more and Hanley's lawyer at that time.

Q. Mr. Kizer, Mr. Moore's lawyer?

A. Yes, he was there. The meeting of the officers of the bank, also the Crescent Lumber Company and their lawyer and Hanley, and the bank's lawyer; I think Lund the first time was supposed to be Hanley's lawyer, if I ain't mistaken; Mr. Lund was representing Mr. Hanley at those conferences, that is what I think; a fellow by the name of Smith represented the bank at one time that we had here, but he was not here at that time. Smith was not there.

Q. Your idea is that Mr. Lund was representing Mr. Hanley at that conference?

A. In one way, we thought if he had settled things, it would have been better for all; that is what we came there to have those meetings for. It was under those circumstances that Mr. Hanley said he had deeded this land to them, just to make the Crescent Lumber Com-

(Testimony of Louis Olson.)

pany to come to terms. He did not explain how that was going to bring the Crescent Lumber Company to terms, not that I remember.

Q. Now, Mr. Olson, that deed to James Hanley was on the 2d of May, and this conversation was after the attachment of the Crescent Lumber Company, the latter part of July. Now, did he explain to you, or give any reasons how that would bring them to time?

A. Not that I remember, and I don't thing that he did. There was something said that the Crescent Lumber Company went back on them, and not wanting to take the lumber when he wanted to ship it; I remember that; I said I could not remember, in answer to Mr. Lund, whether Mr. Hanley said at that time that his son James did not pay him any money for the lots. It was, it must be somewhere the middle of February that I told Will Irish to go up and see what Hanley had up there. He came back well satisfied in one way, he thought he was.

Q. How is that?

A. I don't know; I could not say for sure; of course, he talked sometimes he talked like he was satisfied and another time he did not. I didn't know anything about a mortgage being taken from Hanley on the 26th of February, at the time this was taken, because I had nothing to do with the bank at the time; in one way I had, but Will Irish had charge of the whole bank. My connection with the bank on the 26th of February, 1910, down to the 24th of July of the same year, was vice-president, and, of course, I was a director. Sometimes

(Testimony of Louis Olson.)

when I had any money to deposit I would go to the bank every day, and if I did not, I did not go there. There was some meetings of the directors probably held when I was not there; we did not hold the meetings so very often; probably twice a year, I guess. I could not say how much money our bank let Hanley have, without security, after the 2d of May, 1910, because I did not pay any attention to it, because it was left to Will Irish, whatever he should do.

Q. Is it not a fact that after Will Irish went up there, in February, 1910, and came back, that after that, after the 2d of May, 1910, your bank let Hanley have over ten thousand dollars without any further security?

Mr. LUND: This witness says he don't know about that.

Mr. BIRDSEYE: He may be able to remember that, something about that; he was a director and vice-president.

The WITNESS: I know he got money after that, of course. I don't know that he got up to ten thousand dollars, but I know he got two thousand dollars after the bank examiner was there the first time.

Q. Now, if you thought Hanley was in such bad shape financially, how was it he kept getting money at the bank without security?

A. I got security when I found it out. I first got security when I found out how the circumstances was. That was when we found out the Crescent Lumber Company had attached his property here, so I got hold of the whole thing.

(Testimony of Lawrence C. Owen.)

Q. That was the first time you got security, was after the Crescent Lumber Company attached his property?

A. I don't know how the thing was. I mean to say as a director and vice-president of the bank, I did not attend to business because the thing was left, I told you, to the——

The COURT: It is very evident they did not attend to business or this loan never would have been made.

The WITNESS: You bet your life it would not.

Witness excused.

LAWRENCE C. OWEN, sworn on behalf of complainant, testified:

DIRECT EXAMINATION.

The WITNESS: My name is Lawrence C. Owen. I reside at Dennison; that is three miles south of Deer Park. I have resided there, as near as I can recollect, it will be twenty-six years last fall. I knew James P. Hanley and his mother, and wife, and his children. They lived, in reference to my place, on their homestead; they lived north and west. I should judge about three miles. I was intimately and well acquainted with them. I knew Mrs. Julia Hanley, the mother of J. P.

Q. How did she live in that neighborhood?

The COURT: I think it is admitted she did not live in luxury, unless you want to prove something specific.

Mr. LUND: I will get to it.

The WITNESS: She lived alone on her homestead, in a little place, and then when they moved from there, she lived alone on a forty acres north of father's place.

(Testimony of Lawrence C. Owen.)

I never had any talk with Mrs. Hanley about financial affairs, only just once when she came to school; she came to school and said that——

Mr. BIRDSEYE: I object as hearsay.

The COURT: I think it is rather remote, but he can answer.

Mr. BIRDSEYE: Objected to as irrelevant, incompetent and immaterial, and hearsay, and inadmissible. I can't understand how what was said to this man would be competent.

The COURT: It might be competent hereafter. He may answer the question.

The WITNESS: She came to the schoolhouse and said she was driven out of home and had no money, nor nothing to live on. There was nothing further happened, that I know of. She went back and the teacher told her she would see what could be done, and she went home.

Q. Did the school children gather up the remainder of their lunches and give to her?

Mr. BIRDSEYE: Objected to. He has asked the witness what was done. Objected to as leading.

Objection sustained.

Complainant excepts and exception allowed.

The WITNESS: The children wanted to donate what they had.

Mr. Birdseye: I object, the question is what they did.

The WITNESS: I know what homestead she took up. It is hard to say what it was worth. As to what land was selling for in that locality at that time, there

(Testimony of Lawrence C. Owen.)

was one place adjoining it, the southeast one hundred and sixty, on the same section, my father offered me that soon after that for——

Mr. BIRDSEYE: I object, no proof of value, any offer made. He has got to show himself competent to state the value.

Objection sustained.

Complainant excepts and exception allowed.

Q. I ask you if you know what the value of it was?

A. This place adjoining sold for one hundred dollars. There was no land ever cleared on her place known as her homestead. I have not been there in the last three or four years and don't know whether any land has ever been cleared on it up to this time.

Q. Any other time, did you have any conversation with Mrs. Hanley as to whether or not she had any money?

A. I took her some beef once, my father killed a beef, and took some beef up and she said she could not——

Mr. BIRDSEYE: I object as hearsay. Same objection.

Objection overruled.

A (Continued). And she told me that she could not pay for it, that she had no money, and I would have to get the money of Mr. Hanley. That is, her son. I was around Mr. Hanley's mill for a time, I worked for him awhile. His mother was living in the same place, north of my place, at the time I worked for him, in a little place by herself.

(Testimony of Lawrence C. Owen.)

Q. What was her general reputation in the community, as to whether or not she was a person of means, or had any means at all?

Mr. BIRDSEYE: I object, calling for irrelevant, incompetent and immaterial testimony.

The COURT: If she had her money in tin cans, she would not be likely to have any reputation for having wealth. You may answer the question, however.

The WITNESS: It was talked that she had nothing.

Q. Who was supporting her?

Mr. BIRDSEYE: Same objection.

The COURT: You can answer, if you know.

The WITNESS: I don't know; that is, I don't know of my own knowledge; just general talk.

CROSS-EXAMINATION.

The WITNESS: This Grandma Hanley was a kind of a jolly woman, very talkative. She might have been childish and peculiar at times, not to my knowledge, though.

Q. Wasn't she kind of an old-fashioned soul, lived by herself and did not have much to do with anybody?

A. Yes, sir; she lived by herself. I don't know as I could say whether she was peculiar, any different than the common run of old people; she was an old lady. She must have been about seventy years old when she came to the schoolhouse. I was going to school. I was about sixteen or eighteen. That has been about fifteen years ago, I guess.

Q. Fifteen years ago, you remember pretty distinct now?

(Testimony of Lawrence C. Owen.)

A. I remember her getting the money, yes sir.

Q. Wasn't she what we call an eccentric old lady, a peculiar old lady, that was doing things of that kind?

A. I did not see her do any, only this one time, to my knowledge.

Q. Didn't she have the reputation up in that community of being a cranky, peculiar old lady, quarrelsome, living by herself?

A. She never visited much.

Q. Answer my question. Didn't she have that reputation among the neighbors?

A. I could not say, because——

Q. Didn't you ever hear such talk about her

A. No, not to my knowledge.

Q. She was just like any old lady, was she?

A. Yes, just like any old lady.

It was some time in the fall of the year, but I forget when, that I sold her the beef; I could not state what year, how long ago.

The Court: Aobut how many years ago?

A. It was after the time that she came to the school-house, some time ago. I was sixteen years old, somewhere. It was not in the last few years, fifteen or sixteen years ago. I forget just what beef I sold her, I could pack it easily. I am distinct that she told me she had no money. She told me to get it off her son Jim. She just said she had no money and could not pay her, and her son Jim would pay it. There has not been any trouble between I and the Hanleys, any of them; my father and the Hanleys have had some difficulties.

(Testimony of J. F. DeWitt.)

Q. Which one of them was it that shot his cow, you or your father?

A. I don't know that either. I don't think he ever accused either one of shooting the cow. There was no trouble of that nature, not in regard to the cow. There has been standing trouble between my father and the elder Hanley over land. He told him to get off the place or he would put him off, I believe, or something like that, my father did. My father didn't have no gun to put him off with.

Q. Your father has killed one man in that neighborhood, hasn't he?

Mr. LUND: I think that is improper.

Objection sustained.

The WITNESS: It is not a fact that I feel very unfriendly and very bitter by reason of this family feud with the Hanleys. I had dealings with Mr. Hanley afterwards and I paid him back.

Q. He overpaid you?

A. Yes, sir, by mistake.

The WITNESS: I happened to come in here as a witness, because I was summoned here by Mr. Kelly. Other people had told Mr. Kelly that I knew something about this case against Mr. Hanley. I did not go to him and tell him something about it; he 'phoned to me yesterday and told me to be here.

Witness excused.

J. F. DeWITT, sworn on behalf of complainant, testified:

(Testimony of J. F. DeWitt.)

DIRECT EXAMINATION.

The WITNESS: My name is James F. DeWitt. I am acquainted with J. P. Hanley and his family. I was acquainted with his mother. I became acquainted with her, I think it was about twenty-three years ago last spring, if I remember right. The first time I recollect of seeing her was the one time she got on the train, I think at Trout Creek, Montana, we were coming through there. I met Mrs. Hanley on the train when I was coming to this country. I became acquainted with her son and his family afterwards, after I came here. I was well and intimately acquainted with them later on. Well, in the first place, we settled down on the north side of the river over here, and if I recollect right, Mr Hanley was not living near there at that time. Mrs. Hanley was living, I think, with Jim Hanley, living with her son. I think they lived here from—I think she lived here from April, I think it was, up until some time in the summer, and they moved onto this homestead late in the fall. Mr. Emmett Pratt and myself helped her locate on the homestead. I did have a conversation with Mr. Hanley's mother about her financial affairs, or whether she had money, once; I did twice. To the best of my knowledge, it was several years after they moved onto their homestead; she came over to our place and said that she——

Mr. BIRDSEYE: We object to what she said, as being hearsay and incompetent.

Objection overruled.

(Testimony of J. F. DeWitt.)

The WITNESS: She said she had some money left, if I recollect right, it was either three or four hundred dollars, or something like that, she told me at that time.

Q. What did she say, if anything, about being on good terms with Mr. Hanley's wife?

Mr. BIRDSEYE: We object to that. It would be in no way competent.

The COURT: It seems to be very remote.

Mr. LUND: It might go to the probability of her turning over a lot of money to her.

Q. When did you have any other conversation with her about money matters?

Mr. BIRDSEYE: I presume there is no use of my making further objection

The COURT: No.

Mr. BIRDSEYE: I want my objection to go to all of this class of testimony.

The COURT: Very well. Objection overruled.

The WITNESS: There was several times she came over there to our place and made several little complaints about the way she was used. Subsequent to the occasion when she said she had three or four hundred dollars, later on she had some little trouble, I think, with Mrs. Hanley, she came over to our place and said that she was destitute and she had no money and was depending on Jim for her living. That was just before they proved up. I think that must have been, oh, it was some four or five years, or such a matter, they had moved onto that claim. Before the timber was cut off, land in that locality, it was considered it was worth

(Testimony of J. F. DeWitt.)

more money than it was afterwards. We thought land was chiefly valuable for the timber at that time. This particular piece of land that Mrs. Hanley owned, I think there was a small piece cultivated on one corner. I didn't know exactly where the line ran, but I think there was a little on one corner of their place cleared, not what I would say cleared, but there was some slashing, some improvements made, a little house built.

Q. Did you ever hear anything about having sold the timber to the Chattaroy Lumber Company, and that company having failed, and not getting anything out of it?

Mr. BIRDSEYE: I object, as hearsay.

The COURT: I think this is hearsay of the rankest kind. I don't think it is competent for any purpose. If you desire to get it in the record, I will permit it to go in.

Mr. LUND: I don't think it is important enough to go in, if they have any objection.

CROSS-EXAMINATION.

The WITNESS: It was several years after Grandmother Hanley moved onto her claim that she told me she had some three or four hundred dollars, but it was before she had sold her claim.

Q. Did she tell you that was all the money she had?

A. She said she had three or four hundred dollars left, something like that.

Q. She did not tell you but what she had some little left?

A. Yes, sir; that is what she had left.

(Testimony of J. F. DeWitt)

The COURT: Q. When did she move on this homestead claim?

A. I think it was twenty-three years ago last fall that she made actual settlement. I don't know how Grandma Hanley came to tell me that, of course she was old and somewhat childish and she seemed to put lots of confidence in us in a way, and her being old of course we——

Q. She was so old and childish that she seemed to have lots of confidence in you, you have said?

A. I say she was old and childish, the same as any person. I don't know how old she was then; I can't remember; she must have been seventy, I judge, or close to that. She told me that her money was exhausted after she went on the homestead, later on, I think it was some time before she proved up. I don't know how she came to tell me that her money was exhausted; she just volunteered that statement.

Q. She was an eccentric old lady, wasn't she?

A. Why, she was a smart old lady. I never see anything very peculiar about her, any more than any other person. As to living by herself and not having very much to do with other people, of course she had to live on her homestead. She didn't associate a great deal with other people, not a great deal. I think she did keep her affairs pretty much to herself. I don't think she was inclined to be miserly. I could not say she was inclined to live in a niggardly, scrumpy fashion; I think she believed in living comfortably, but she was not extravagant, and she was saving.

(Testimony of J. F. DeWitt.)

Q. Were you sufficiently intimate or friendly with her that she would tell you how much money she had and when it was drawn?

A. She was friendly to all of the ranchers, as far as I know.

Q. Answer my question, as far as you can.

A. Friendly to us, that is all I can say. Yes, I have several times gone around and told the neighbors how much money I had and when it was exhausted; several times, a good many times. She was not asking to get money when she told me her funds were exhausted. I don't remember just the circumstances of how she came to make a statement. It was on my homestead, on section eight. I don't know what led up to it, how she happened to talk about it. She did not come along on the street and say, "Mr. DeWitt, my money is all gone"; she was there, she came over there and made a little visit, and in the conversation she mentioned it to us; we did not ask her any questions, I know I did not; she just voluntarily said that. Whether she said it through sympathy or what, I don't know, but I know she said it.

Q. Did she tell you how her money had gone? Answer the question yes or no.

A. Yes, sir, she did; she said she had.

Q. Wait a minute, now. I ask you that. When did she tell you how it had gone?

A. Well, the time——

Q. Who was present when she talked that way?

A. My wife.

Mr. LUND: One question at a time.

(Testimony of J. F. DeWitt.)

A. My wife was present. I don't just remember how long I saw Grandmother Hanley before her death, the last time I saw her. I was gone from that part of the country four or five years; I think I was gone about, oh, I guess about four years. I guess it is a fact I did not see her for the last six or eight years before her death, it has been all of that.

REDIRECT EXAMINATION.

The WITNESS: She said she had used the money for her own purposes and that she had given Jim some money, Jim Hanley, her son. That was in the same conversation that she told me that her money had gone, at the same time, the same place. That was stated to me and my wife, and it was in a casual conversation. She brought it up herself.

RECROSS-EXAMINATION.

Q. Is it not a fact that shortly after Mrs. Hanley went onto her homestead, you brought her some groceries from Chattaroy and charged her five dollars for a few groceries, and after that she never had but little use for you or your family after that?

A. I charged her five dollars, you say, for bringing some groceries from Chattaroy?

Q. Yes, did you?

A. I don't think I ever charged her a cent for anything I ever done in my life. I don't remember having a falling out with the old lady over a circumstance or anything of that kind. She always treated me very friendly whenever we met.

Witness excused.

(Testimony of J. M. Beard.)

J. M. BEARD, sworn on behalf of complainant, testified:

DIRECT EXAMINATION.

The WITNESS: My name is J. M. Beard. I reside in Deer Park. I have lived there about close to nineteen years. I knew Mrs. Hanley, the mother of J. P. Hanley, in her lifetime. I lived right close to them, adjoining, next door. I knew Mrs. Julia Hanley, that is, the grandmother, intimately and well while she lived there in Deer Park, yes sir. We visited very frequently, that is, I had a garden right at the house, the little house she lived in, where I was working, and she was very talkative, and in that way she did not leave her house very much.

Q. What sort of a place did she live in, how was it fixed up?

The COURT: It is admitted it was a sort of half house, with roof broken out, I don't know whether it is necessary to go into that any further.

The WITNESS: I didn't have any conversation with Mrs. Hanley, whether or not she had any money in particular. She never made any statement to me about having disposed of or lost all of her money, the only remark in regard to her financial affairs was about her timber; she said that she had sold it and let her son Jim have the timber off of her place. She turned over to him the timber on the place. She never made any remark at all, not to me direct, about having any money.

Q. Was she reputed to be a person of means in the community there?

(Testimony of F. M. Berg.)

Mr. BIRDSEYE: I object as incompetent and inadmissible.

The COURT: Same ruling.

The WITNESS: No, she was not. I don't know as I could tell who was supporting her, exactly. Mr. Hanley took the provisions over to her, Mr. Hanley's little girl. I never had any talk with J. P. Hanley here, in which he made any statement as to whether or not he was supporting his mother; never did.

CROSS-EXAMINATION.

The WITNESS: Yes, the old lady told me she let her son James have her timber. She did not say anything about what he paid her for it, or whether he paid her anything. I worked for James P. Hanley at the time the old lady sold logs off her place to the Chattaroy Lumber Company, but I didn't know his mother at that time. I didn't know that circumstance.

Witness excused.

F. M. BERG, sworn on behalf of complainant, testified:

DIRECT EXAMINATION.

The WITNESS: My name is F. M. Berg; I work at the First State Bank, assistant cashier. I have been assistant cashier there just about a year. I was employed at the bank prior to that time, in a clerical capacity, practically the same position. I had charge of the books of the bank. I kept the accounts of depositors in this ledger. This is the ledger in which we kept Hanley's account. We had what we called the "active" and "inactive" accounts, and the more active

(Testimony of F. M. Berg.)

or business accounts we kept in this book. J. P. Hanley opened his account with the bank on the 15th of July, 1907, before I came there. His indebtedness to the bank on the 2d of May, or thereabouts, was a few dollars over twenty-seven thousand.

The COURT: The 2d of May, 1910?

The WITNESS: The 2d of May, 1910. I don't remember any time when Mr. Hanley ever deposited any cash in the bank to his credit at any time, and I am sure there was no such amount as fifteen hundred dollars or thereabouts.

Q. What do your records show there of the deposit, the nearest date to the 2d of May, subsequent to the 2d of May, 1910?

A. On May 7th there was a deposit of——

The COURT: He don't claim to have deposited any prior to that fifteen hundred dollars, does he?

Mr. LUND: No.

The WITNESS (Continuing): A deposit of \$324 on May 7th, 1910, and on the 2d there was two of a little over a hundred dollars each.

Q. What is the fact as to whether Hanley's paper was due or past due at that time?

Mr. BIRDSEYE: Objected to as calling for a conclusion; the paper will speak for itself.

The COURT: Yes. Some one testified that a ninety day note was given in February; this being a bank officer, I suppose he can get the totals of them. The note itself will be the best evidence, if there is any dispute. Does the record show the nature of the transaction?

(Testimony of F. M. Berg.)

The WITNESS: No, but I happen to know just exactly what they were.

Mr. BIRDSEYE: I think I will object.

The COURT: He may answer.

The WITNESS: All due, except four thousand dollars, on April 23d note for ninety days, and all of the balance was due at that time, May 2d; part of it was an overdraft for about six hundred dollars. The status of his account in reference to being overdrawn in 1910, the method was usually when he wanted money, he drew and when it amounted to fifteen hundred dollars, to two thousand dollars, or something like that, he would give his note to cover it usually. He never reduced his indebtedness, not that I know of; he made deposits, of course, but he never reduced his notes. He never paid anything on his notes, on his loan, that I know of.

Q. What is the fact about his indebtedness increasing, his loans increasing?

The COURT: He admitted that himself.

Mr. BIRDSEYE: Said that was his arrangement with the bank.

The WITNESS: Mr. Irish had charge of the bank at this time; that is, specially the loans, that part of it. The bank then had as security a mortgage on the sawmill for this indebtedness, on May 2d we had a mortgage on the sawmill and land for two thousand, and logs for eight thousand, and machinery for ten thousand; making twenty thousand dollars. The balance

(Testimony of F. M. Berg.)

was unsecured. Now, subsequent to the 2d of May he made a note to the bank, it was some time in July, I believe. That note was given to cover his overdrafts. It was at time, when the checks came in on that day, a little over three thousand dollars, and that is what he gave the note to cover that. That is, he had already drawn the money and he gave his note to cover it. That was the last loan that was made, the last and only loan since that date.

CROSS-EXAMINATION.

The WITNESS: Mr. Hanley deposited nothing in our bank on May 3d. The first deposit I gave was the 2d of May. There were two amounts, one for \$117.75, and one for \$164.99. The aggregate of the two is two hundred eighty-two dollars and a few cents. Then, on the 2d of May, 1910, he deposited two hundred eighty-two dollars and a few cents, if I am not mistaken. The next deposit in May is May 7th, \$324.26. Next, on May 12th, \$902.65; next May 14th, \$465.70. He was making deposits right along then. Mr. Hanley received from our bank, or money went to the credit of his account in our bank, after the 2d of May, up to the 24th of July, 1910, of practically three thousand dollars, just about that, a few dollars more or less, possibly. That is all that our bank owed him for between those dates, three thousand dollars. Well, it was money that was put in that was to cover his overdraft. From the 2d of May, 1910, up to July, we let him overdraw something like three thousand dollars. We took his note for it same day in July, July 11th. He made no overdrafts

(Testimony of F. M. Berg.)

with us after that time. Yes, he did have an overdraft at that time, but it was a small amount. No, he did not get any more money from the bank outside of his small overdrafts. The largest overdraft, I think, was three or four hundred dollars, yes. In regard to those overdrafts, we were instructed after June 10th not to let him have another cent, by the bank examiner. The officers of the bank did not give me any such instructions, the officers of the bank did not happen to be there after that time. They were around after that. The officers of the bank, or the cashier of the bank, did not give me any strict instructions not to let Hanley have any more money, but it was really settled that I should not let Hanley have any more loans after that date, after June 10th. It was the bank examiner that did it, but there was instructions, and I guess they were final, from the bank examiner. It was early in the year that the cashier or the officials of our bank first decided that Hanley's credit was bad and that his account must be watched, they were beginning to be careful and felt bad about it at the time along in February, when they got the security at Northport. After they got their security, I guess they did not begin to get worried about his account until the bank examiner came, that was June 10th.

Q. What steps were taken to protect the bank right after that?

A. Well, the bank examiner gave those instructions. It is not exactly what you asked for; I guess maybe I can tell you. On the 10th of June, he said to

(Testimony of A. J. Penrose.)

report to the office in Seattle, the bank examiner, every week, and not to let him have any more money, and go ahead and fix it up, and get whatever money they could out of it—out of Mr. Hanley—and Mr. Irish got to stirring around right away, but he did not seem to be able to do so, and he let him have this other three thousand dollars more to pay his labor payrolls than anything else, to keep from starting trouble right away. It is not a fact that I considered Hanley perfectly good and perfectly solvent, and a good customer, and did not worry about his account until the Crescent Lumber Company attached him.

The COURT: The material issue is, whether he paid fifteen hundred dollars for this property, and we have drifted a long ways from it.

Mr. BIRDSEYE: I thought possibly the solvency of the other Hanley would have something to do with it.

The COURT: There is no question as to his solvency after they started to press him; he was on the ragged edge a long time before this attachment, whether the bank officers knew it or not.

Witness excused.

A. J. PENROSE, sworn on behalf of complainant, testified:

DIRECT EXAMINATION.

The WITNESS: My name is A. J. Penrose. I was employed at Mr. Hanley's mill in 1910. I worked there from about April 21st or 22d, as long as he was there.

Q. I will ask you if you had a conversation with

(Testimony of A. J. Penrose.)

James M. Hanley about his deed to these four lots out in the Northeast Addition to Ross Park at any time.

The COURT: The deed in this action, is it?

Mr. LUND: Yes, sir.

The WITNESS: One time I had a little conversation with him. That was, I don't just remember the date; it was about the last week in June, 19th, it was. That was here in town. I met him one evening on the corner of Riverside and Washington.

Q. That was in 1911?

A. This last June. I had a talk about his having had a deed from his father to those four lots out there. We had a conversation here about what he intended to do. He said that he thought that probably he would run a wood saw this winter, in a small woodyard in those lots the old man—he spoke of his father as “the old man”—gave him, but he said he did not know that he could hold them on account of the old man transferring them to him too late. That is about all of the conversation I had about that.

CROSS-EXAMINATION.

Q. Was this in June of this present year, 1911?

A. Yes, sir, about the last week in June, as near as I can tell now. The conversation was on Riverside and Brown. My wife was present and James Hanley and myself. The matter came up in this way, we had quite a conversation there that evening, the first time I had seen James since he came back from the north. That was after I had been to Alaska, after I came down from there. I had quite a visit with him. He came to say this

(Testimony of A. J. Penrose.)

that I have related here in this way, he told me that he had got a letter from his father, that he wanted him to come up there and work for him; he was hesitating about going; he said he and his people did not like to go up very well and he told about what he was thinking of doing if he stayed here. He was thinking of fixing up and running a wood saw on those lots that his father gave him if he could hold them, but he said he didn't know that he could hold them, for the old man transferred them to him too late. He used the words "which his father gave him," yes, sir. He referred to the lots over there. I am pretty sure he used the language "the lots which his father gave me." He did not say which he got from his father. He did not say that he could hold them because the old man gave them to him too late; he said, "transferred them to him too late." He did not say that he had been sued at the time, to set aside that conveyance, and suit was pending in this court. I and my wife went to Alaska last summer to work for James P. Hanley up there, if I remember right. He was in charge of two mills at the time I was up there.

Q. The upshot of it was, that you and your wife, or some of you, had a row with him and came back, is not that so?

A. We went up there to work at a mill that he had not started yet, so as long as he had not started that mill and he puts us to another place and there was a larger mill there, and he wanted some work done, he did not want to do as he agreed. I or my wife had difficulty, not very much. I did not say that my wife had a very

(Testimony of A. J. Penrose.)

serious trouble with him; ask Mr. Hanley, he can tell you more than I can. I and my wife never said, among other things, that we would even up with him.

Q. Didn't you say in substance, or say among other things, that you would see that Hanley did not get a cent from this property of his that was gone into bankruptcy, from those lots?

A. I did not hear her say it, and I did not say it. It is not a fact that I and my wife ever made any boasts that we would see that he lost this law suit; I heard her tell you that; that is all I know about it. That was my wife, she said so, that is, Mrs. Penrose. I heard what you (Mr. Birdseye) said you were going to do; you said you were going to sue Hanley for ten thousand. She did not say in substance that she would see that he lost this law suit. She said you (Mr. Birdseye) were going to lose it. She did not say why. She did not say she would have anything to do with it.

Q. She just made the prophecy that I would lose the case?

A. Yes, sir; she called me up one evening and told me what she said over the 'phone, but I did not hear that, I was not on either end. I have pleasant, friendly feelings toward Mr. Hanley, as well as I ever did. He tried to get me, but he can't no more, but I am as friendly as ever. That would not influence my testimony, not a bit. He tried to get me, by getting me up there, and he said I could not get out, and put me to work, up in Alaska. I don't feel pretty sore about it, not at all; he paid my way up there and had to pay it back.

(Testimony of R. J. Danson.)

RE-DIRECT EXAMINATION.

Q. Was it Mr. Birdseye that was doing the boasting about saving Mr. Hanley eight or ten thousand dollars?

A. Yes, more than Mrs. Penrose was. Mrs. Penrose told him he was going to lose the law suit. I have no feelings against Jim Hanley, he was not up in Alaska. He did not induce me to go up there. I don't understand that the father has any interest in this law suit, except to save the property for the boy, if he can.

WITNESS EXCUSED.

R. J. DANSON, sworn on behalf of complainant, testified:

DIRECT EXAMINATION.

The WITNESS: My name is R. J. Danson; I am a lawyer. I recall a meeting which was held in your (Mr. Lund's) office in the Rookery Building, some time the latter part of July, 1910, when I was present representing Mr. Hanley, I recall the time. I am not real sure about all who were there; I think yourself (Mr. Lund), I know Mr. Hanley and the representative of this company, I think, the Crescent Lumber Company. I don't remember Mr. Moore's name now. I think Ben Kiser was there. Now, whether anybody else was present or not, I don't recall. I know Mr. Kelly and Mr. Olson from Deer Park, I think they were both present too; I am not sure whether young Hanley, Jim Hanley, was there on that occasion; I am inclined to think he was—yes, I think he was. I remember a discussion coming up as to Hanley having conveyed four lots over here in Northeast Addition to Ross Park to the boy.

(Testimony of R. J. Danson.)

Mr. BIRDSEYE: I think Mr. Danson was there as attorney for Mr. Hanley, and I will object to the testimony as coming from the attorney of the client. He has already testified he was the attorney for Mr. Hanley; he took part in the conferences, I apprehend, and whatever conferences occurred, it seems to me the attorney should not be permitted to reveal against the client.

The COURT: I will reserve my ruling on it; I am of the impression that a conversation given under these circumstances is not privileged.

Q. State what Mr. Hanley stated, in the presence of this young man there, as to the purpose of this conveyance, and whether or not anything was said about any consideration for it passing.

A. The substance of what was said by Mr. Hanley was that he had made this conveyance to his son for the purpose of bringing this Crescent—was it—Crescent Lumber Company to time; that the boy had paid nothing for the property; the boy said nothing in response to that, that I remember; quite certain that he did not; he did not contradict it, I know. I know I said some things in reference to this particular matter, but what I said perhaps is not necessary.

The COURT: It is not material.

The WITNESS: This was the first time I had learned of these transfers. I think you (Mr. Lund) told me in his presence, and I made certain remarks about it.

CROSS EXAMINATION.

The WITNESS: I was acting as attorney for James P. Hanley at that time. This conference and the occa-

(Testimony of R. J. Danson.)

sion has to do with legal business I was handling for him with reference to the claims, I think, of this Crescent Lumber Company, and also of the bank at Deer Park. I don't remember the name of the bank—Deer Park Bank, was it?

Mr. LUND: First State Bank.

The WITNESS: First State Bank of Deer Park. This conversation was made with reference to that matter, I say. I am very sure this boy, Jim Hanley, was present. Mr. Hanley, in these remarks, referred to some lots; I think Mr. Lund and I had been up to look at before that, or else went out after, I think before, North Addition to Ross Park, I think they were abutting upon the railroad track of the Great Northern Railway, or some railway out there any way; there were four lots, as I remember that he had owned, and which he had talked about turning out as security for these claims. After refreshing my recollection this conversation did not refer to some personal property and bill of sale which had been made to the son, or horses and cattle and a mill outfit, I don't think so. I know it referred to these lots. Now, during some of the time, we had some talk about the bill of sale of other property, also some horses and things in Stevens County. I could not be mistaken that this statement of his, of the transfer, referred to the lots and not to the personal property, no I could not; I am pretty positive of that because, if I remember correctly, there was also something about having transferred a house and lot to the daughter.

(Testimony of R. J. Danson.)

Q. Did Hanley say that he had transferred that to "tony up" the Crescent Lumber Company?

A. I don't remember whether that was talked over at that same time or not, but my impression is that it was; I know that we discussed it. Hanley did not make any estimation as to how that conveyance of these town lots to his son was going to bring the Crescent Lumber Company to time. I would not be able to say the date of this conversation, but my remembrance is it was in July, I think it was, the time that I was to take a vacation, if I remember correctly, and it was either in July or August of that year. I would not be able to say for certain whether it was after the Crescent Lumber Company attached Hanley.

Q. Weren't you there trying to adjust matters growing out of the attachment, of the rush of creditors that was precipitated?

A. I know we were there trying to adjust the claim of the Crescent Lumber Company, and I know also that the bank at Deer Park was fixed up, they had a large amount of claim, quite a large amount, against Hanley for money which the bank had advanced to him. I could not say for certain whether it was later than the time of the attachment of the Crescent Lumber Company on the 22d or 24th of July, 1910; I am rather inclined to think it was about that time, but I could not say whether it was before or after; it is a long time, and I have not thought of it since. I withdrew from the case and from acting for Mr. Hanley shortly after that, within a very few days, and I have never had the matter in hand since

(Testimony of R. J. Danson.)

or thought of it to any extent, except Mr. Lund mentioned it to me here a few weeks ago, just asked me if I remember about the meeting, and I said I did. I can't remember how long ago this conveyance you refer to was made, on the 2d of May; I know that I did not know of it until Mr. Lund mentioned it, and I was very much surprised that he had made the conveyance, but I know that I censured him severely for it. I censured him because I felt that that was a good cause to sustain an attachment against him and showed that he was acting fraudulently. I think I did know at that time—I think that I had been consulting with him for some time—I know that he was not in good financial condition when he made the deed.

Q. You think he was not?

A. I know he was not. I do not recall at that conference talk of this kind, that these lots were purchased on either side of intervening lots 517, 516 and 18, two other lots lying in between them, at that conference or that conversation, that someone asked Mr. Hanley why he bought lots in that position, with intervening lots, and he said that it was so that he could kind of have a string on those lots in the future, and buy them up in the future, or that in substance; I don't recall that. I do not recall any one saying in response to a conversation of that kind, that that was a "Yankee trick," or "regular Yankee trick"; that is not what I had in mind; Mr. Lund and myself—I took my horse and buggy at the instance and with the knowledge of Mr. Hanley, and took Mr. Lund out over this property, and I think it was done be-

(Testimony of R. J. Danson.)

fore we had the conference, if I remember right, I am nearly certain about that, with a view of his turning out this property as security for these claims, and I had advised him to do that. That is why I am so positive about it, and I remember I was driving out and looking at those lots, and then going up into Lidgerwood Park Addition and looking at a house that he owned and that also was to be turned in.

Q. Now, that was a part of the proposed agreement, that he should turn in everything, the wife should join in the mortgage of their homestead at Lidgerwood, and the boys should relinquish their claim for wages; that was a part of what you were talking about?

A. I think there was something said about boys' wages. It is not a fact that in that proposed agreement that James Hanley, Jr., the boy, was mortgage these four lots. They were considered the property of the elder Hanley, absolutely, and I know I was amazed when I learned that he had conveyed them to the boy. I am as fair as a man can be, I think, about this; of course, there is always a possibility of being mistaken, but I don't think here I could be. I talked with Hanley about the matter alone, I lectured him, if that is the question. I was there as his attorney, I was anxious—I thought if Mr. Hanley acted fair and honest that he could—

Mr. BIRDSEYE: I don't believe I care what you thought about it, Mr. Danson. I am not asking you about that.

The WITNESS: I had no other business there at that time than to act as his attorney.

WITNESS EXCUSED.

(Testimony of B. H. Kizer.)

B. H. KIZER, sworn on behalf of complainant, testified:

DIRECT EXAMINATION.

The WITNESS: My name is B. H. Kizer; I am a member of the firm of Graves, Kizer and Graves, lawyers. My firm were attorneys for the Crescent Lumber Company, which was a partnership and had a claim against J. P. Hanley some time in July, 1910. I recall having a conference at your (Mr. Lund's) office, along the latter part of July.

Q. Will you state who was present and what, if anything, was said by Mr. Hanley with reference to why he had made a transfer of certain lots in Northeast Addition to Ross Park to his boy?

Mr. BIRDSEYE: We object, for the reason Mr. Hanley is not a party to this record.

Objection overruled.

The WITNESS: You (Mr. Lund) were present, Mr. Hanley was present, his attorney, Mr. Danson, was present, one of my clients, Mr. Moore, was present, and I believe two other gentlemen, whose names I now forget, one of whom I think I recognize in the court room, officers of the State Bank of Deer Park.

Q. Mr. Irish and Mr. Olson?

A. Mr. Irish and Mr. Olson, I believe, and my recollection is clear that young Mr. Hanley, whom I think I recognize, was present; the conference had been postponed, I think, once or twice waiting for him to come down, or something of the sort; he was supposed to have

(Testimony of B. H. Kizer.)

some information about what was the state of the stock up there; we were anxious to know about what stock they had on hand, he had been running the mill and knew about it, and all of the subject of inquiry in regard to ascertaining how much stock this yard had. We were negotiating with respect to turning over the assets to a trustee to run, as it appeared that Mr. Hanley was in a state of serious insolvency, and I had a list there of certain property which Mr. Hanley had given to the Crescent Lumber Company as a basis for credit, which he owned, including four lots in Lidgerwood, which I think had been sold on a contract, and a small payment made—four lots in an addition to Ross Park, Northeast or Southeast Addition to Ross Park, and the home property out in Lidgerwood, and it was brought up by you (Mr. Lund), I believe, that conveyances had been made quite recently of the home property to the daughter and of the other lots, the four lots, to the son, and Mr. Danson seemed very much surprised, and turned to Mr. Hanley, Sr., and said, "What did you do that for?"

Mr. BIRDSEYE: I object to that as hearsay. Let him tell what Mr. Hanley said, and leave out this detailed recitation.

The COURT: Objection overruled. Go on and state what was said about the transfer of these lots.

The WITNESS: Mr. Hanley replied that he wanted to bring the Crescent Lumber Company to time, that he wanted to make them live up to their contract, that is why he did it. I think I asked the question, "You were not paid anything for it, were you?" or "There was no

(Testimony of B. H. Kizer.)

consideration paid?" or some such question as that, and he replied again, "I just wanted to bring those fellows to time; I thought that would be a good way to do it." I think it was Mr. Danson or yourself (Mr. Lund) remarked that that was a very queer way of doing it.

Mr. BIRDSEYE: I object to that; it is very interesting, but not competent.

Objection sustained.

Complainant excepts and exception allowed.

The WITNESS: The young man Hanley did not make any statement to the contrary there. He did not say anything at all on that subject; he may certain questions; the question was asked him about the stock.

CROSS EXAMINATION.

Q. Was it this young man that is sitting here, (indicating), or the young man sitting second from the lady back there?

A. This young man (indicating), I don't recall that I have seen the other young man. I think it was this gentleman here present. Now about seeing the other young man, I should not be positive. If it should be testified by several witnesses that he was working in the mill there at Northport, I might be mistaken. I say that is my recollection upon seeing them now; at all events, each of them was introduced as a son of Mr. Hanley to me, and I supposed it was this young man here. As to my best judgment whether this young man was present at that conversation, I will just simply say—I withdraw the remark that it was that young man—and say

(Testimony of B. H. Kizer.)

it was the son of Mr. Hanley who had made the conveyance.

Mr. LUND: Q. To whom the conveyance had been made?

A. Yes; I won't undertake to identify him by face, because it was too long ago, and I saw too little of the son. I don't recall at that conference or some other that we had about the same matters, of Mr. Hanley being questioned why he had purchased these four lots, with two other lots intervening between them. I do not recall someone characterizing his answer as, "It was a regular Yankee trick," or "Yanke trick." No particular discussion was had at that time, or any of those times, about transfer of titles to one of his sons; I think probably it was mentioned if he had conveyed practically all of his property to his children; I think Mr. Lund mentioned it in some such phrase as a——. It is not a fact when I referred to what Hanley said, he was trying to bring the Crescent Lumber Company to time, was about the transfer of certain chattels. He referred to these Lidgerwood, or to these Ross Park lots, these four lots, I am speaking of. I was present and represented the Crescent Lumber Company, and Mr. Moore, of that company, was also present. Yes, Hanley had the hardihood to say in their presence that he had transferred the property simply to bring them to time; absolutely there is no question about it, as far as I am concerned; that is substantially what he said; it is very clear to me, I am still attorney for the Crescent Lumber Company, our firm is attorney for the Crescent Lumber Company. In

(Testimony of B. H. Kizer.)

a nominal sense, the matter really passed out of our hands, I turned it over to Mr. Matthews, but I suppose our firm is supposed to represent them. Mr. Hanley volunteered that remark on that occasion, that he transferred those lots without consideration. As to what he said, I can only repeat what I have said; I think I have given all that he said. My recollection is, that I asked him if anything was paid; I asked him by anything was paid by him, by the son, yes, or by the daughter either, for the other property, and he made the reply, "I just wanted to bring those fellows to time; I wanted to make them live up to their contract." Didn't say that nothing was paid, but simply wanted to bring those fellows to time; yes, that is it. We began to represent the Crescent Lumber Company shortly before the attachment was sworn out; I should say about the 16th or 17th of July. We did not appear for them as early as May 2d. I know nothing about any trouble between them and Hanley before the 17th of July, except what Mr. Moore told me. No, I don't think Mr. Hanley explained how this transfer of property to the boy was going to bring the Crescent Lumber Company to time. Some remarks were made about it, but Mr. Hanley did not volunteer anything in explanation. The date of this conversation I have detailed was quite late in July; it was just before I took my summer vacation, which I took that year. I feel pretty sure it was after our friend had gotten out the attachment for the Crescent Lumber Company, a few days before, I don't think that they met Mr. Hanley before the attachment was taken out. I think that one of

(Testimony of James M. Hanley.)

the grounds for the attachment was based upon the disposition of the property fraudulently.

Q. And in the face of that, and in the presence of you, the attorney for the Crescent Lumber Company, Hanley confessed that he said he had conveyed it to bring them to time?

A. His lawyer and he both seemed to confess. Hanley seemed to be in his right mind. At that time he did not appear to be acting under any duress or influence. Mr. Hanley seemed to be desirous of repairing a wrong he had done. I think at that time he was acting properly and rationally.

Mr. LUND: In connection with this deed that we have here this morning, I want to have in the record here the recitation of the consideration as five dollars for what it is worth.

The COURT: Very well.

WITNESS EXCUSED.

JAMES M. HANLEY, sworn on behalf of complainant, testified:

DIRECT EXAMINATION.

The WITNESS: In 1910 I carried an account with the Northport Savings Bank. I would not say positively I opened that account on March 18, 1910, by a deposit of \$90.00; somewhere around about that time, though, for that sum. I continued to carry a small balance in that bank until probably some time in the fall of 19—, hold on a moment; yes, some time in the fall of 1910. I believe that account exceeded the sum of ninety dollars at some times; I believe it got as high as \$175.00. I dis-

(Testimony of James M. Hanley.)

remember now whether on the 2d day of June, 1910, I had a balance of \$27.50; it is hard to remember a little account like that. I guess it was not very much; did not amount to much. That small balance continued for quite a little period of time, a small balance of that kind. I never had any sum in the bank there, I believe, to exceed \$175.00 at any time. I never had any bank account anywhere else. I was living at Northport at the time, and working in my father's mill, upon the boat, and had been for quite a period of time.

CROSS EXAMINATION.

The WITNESS: This bank account I have been referring to was at Northport.

Mr. BIRDSEYE: That is what you were referring to Mr. Lund?

Mr. LUND: That is where the mill is located, at Northport.

The WITNESS: I opened that account, probably, the first of the year 1910, somewhere along there, in the spring; I don't know exactly what date. It was just small checks that I drew over at the mill that I deposited there. I was paid in checks at the mill. I found it convenient to have an account at the bank, kept an account there; I had a check book to pay my bills around town as I spent money. The money that I got from my grandmother never had anything to do with that account. The reason it was not put in the bank was, it was her request it be not put in the bank when she turned it over to my mother, and she had always refrained from keeping it in banks; so, according to her

(Testimony of Charles P. Lund.)

wish, I never put it in the bank. She did not have any faith in banks. I deposited none of this money in that bank account.

The COURT: What is your age?

A. Twenty-four, the seventh of last November.

Witness excused.

CHARLES P. LUND, sworn on behalf of complainant, testified:

DIRECT EXAMINATION.

The WITNESS: Some time about the 24th or 25th of July, to the best of my recollection, I was consulted by the officers of the First State Bank of Deer Park, in reference to this Hanley indebtedness, at that time this attachment of the Crescent Lumber Company had been levied. We were trying to work out some solution whereby the bank could be protected or saved the biggest part of their debt, and in pursuance of that effort we had a conference in my office, I should say it was along about the latter part of July, probably three or four days intervened from the time I was consulted about it, and there was present, as had been stated here, Mr. Danson, Mr. Hanley, Mr. Olson, Mr. Kelly and Mr. Irish—who was then the cashier of the bank, and was responsible for these loans—and Mr. Moore, a partner in the Crescent Lumber Company, and Mr. Kizer; in that connection, John Hanley was there, and on another occasion both John and the other boy.

The COURT: The defendant, you say?

The WITNESS: Were in my office, talking about this matter.

(Testimony of Charles P. Lund.)

The COURT: James M. Hanley?

A. Yes, sir. And the question of these transfers came up, of the lots out there, in Northeast Addition to Ross Park; also the house in Lidgerwood and bill of sale that had been given by Mr. Hanley to the boy for these teams and wagons and paraphernalia, in connection with his teams for his logging camp, and as attorney for the bank, I was interested in ascertaining the facts concerning the transaction. Both Mr. Kizer and myself inquired of them very particularly about it. He made the statement that he had made the transfer for the purpose of bringing the Crescent Lumber Company to time, substantially as Mr. Kizer narrated here, and Mr. Danson, as he stated that was the first intimation he had of it, and he had something to say about the propriety of it. Mr. Hanley and his boys were here on various occasions and the matter was talked over and how the things were to be solved, possibly.

The COURT: One or both of the boys present on this occasion.

The WITNESS: Yes, sir.

The COURT: I say was one or both of them present; which was it, you say one present on one occasion and one on the other?

The WITNESS: Yes, I think John, that is the young man, if I remember their names correctly, John is the young man in the rear, and this young man here. Now, my best recollection is that the first time we met, I don't think that that was at that conference, that John was there; and at the second, that both of those boys

(Testimony of Charles P. Lund.)

were there. The mill had shut down after the attachment was levied, and the sheriff was in charge.

The COURT: Q. The conversation occurred at the second conference, when both boys were present?

but we were trying to work out some scheme to settle

The WITNESS: That is my recollection about it, but we were trying to work out some scheme to settle the matter; the bank thought that Hanley could work out the situation a good deal better than a trustee could, because he was familiar with the situation, and finally the Crescent Lumber Company agreed to reduce its indebtedness—by the way, in that connection, Mr. Hanley said that the Crescent Lumber Company had returned some of his drafts; the Crescent Lumber Company under the terms of their contract was to remit to him all over seven dollars a thousand on this lumber, and credit the seven dollars a thousand on his indebtedness to them, and Hanley claimed the Crescent Lumber Company had refused to honor some of the drafts, and they had been returned, and that was what his meaning was in bringing them to time, making them live up to their contract. The Crescent Lumber Company finally agreed that they would reduce their claim to six thousand dollars, provided that Hanley——

Mr. BIRDSEYE: I object as immaterial, it cannot bear upon the issues in this case, really.

The COURT: Confine yourself to any agreement or statement that Mr. Hanley made.

The WITNESS: I am going to state, trying to give Your Honor a little insight into the thing, and how it

(Testimony of Charles P. Lund.)

fell down. We met at Mr. Danson's office, after they agreed to reduce their indebtedness six thousand dollars.

Mr. BIRDSEYE: I object to that as immaterial, not bearing on this case.

The COURT: I will overrule the objection, and disregard so much as is immaterial.

The WITNESS: Took a mortgage on these four lots out here, the home place out at Lidgerwood, for the six thousand dollars, credit on that six thousand dollars the proceeds of the lumber that had been already shipped to them, and then four cars additional were to be shipped immediately, and out of that they would credit all over and above one thousand dollars on this mortgage. That one thousand dollars was to be deposited to Hanley's credit in the bank, and he had a claim against Hutchings and somebody else for something like eighteen hundred dollars, the balance due on the old mill that he had sold at Deer Park, and the bank agreed to take over that claim, that is, to take Hutchings for it, and credit his account; that would give him approximately three thousand dollars and upwards to pay his labor. That was the scheme we had worked out, and we also thought that any——

Mr. BIRDSEYE: I object to what was thought.

The WITNESS: This is what was agreed to: the boys claimed to have some small sum due them for labor, they were to waive their claims as against these claims of the bank. Mr. Hanley agreed to that, and when it came to carrying it out, he said his wife would not mortgage her homestead out there.

(Testimony of Charles P. Lund.)

The COURT: Was the defendant in this action consulted in regard to it?

A. Well, he was here during a part of those conferences, and the last one, when we were in Will Graves' office, Mr. Kizer had gone away, Mr. Will Graves prepared an agreement and everything had been agreed to. John Hanley was sent up north and they actually loaded the four cars and shipped them to the Crescent Lumber Company, pursuant to this agreement, and then the thing fell through. But Jim was in Mr. Graves' office at the time the thing was finally—that agreement was drafted, and when Moore and myself were in Broberg & Schuler's office to pay that small balance that was due on one of those lots, something like forty-eight dollars, I think, Mr. Moore and myself went down there from Mr. Graves' office, for they had the abstracts covering the property, and we went down. That is substantially what occurred there.

CROSS-EXAMINATION.

Q. Are you sure, Mr. Lund, that Jimmie Hanley, this boy, was present at that conversation you first related?

A. Either he was present at that, or—well, he was present at the time when the statement was made, or when Mr. Hanley was asked why he had made those transfers to his own family, and he stated that it was for the purpose of bringing the Crescent Lumber Company to time; and somebody said, "Well, you succeeded in your effort, you brought them to time." That did not refer to the transfer of personal property; we were

(Testimony of Charles P. Lund.)

discussing all of those transfers; we had all of the facts before use. Mr. Danson and I had been out there. Mr. Danson drove me out early one morning to look at both the Lidgerwood house and these four lots. We were at that time discussing all of those transfers, and all of those transfers included the transfer of the personal property; it included the transfer of the home place to the daughter Katy, and we were discussing all of those.

Q. With reference to those, Mr. Hanley said, speaking of all of them, that his plan was to bring the Crescent Lumber Company to time, or did he single out the transfer of the lots to Jimmie?

A. No, he said all of those transfers were made without any consideration and for the purpose of bringing the Crescent Lumber Company to time. He was particularly asked whether there was any consideration. I think he spoke of the transfers generally, but we discussed in detail the different properties, and discussed in detail what those four lots were probably worth. I don't think Mr. Danson and Mr. Kizer testified here they did not hear anything said about the transfer of the personal property, in substance. I heard what he did say on that subject. My version is, in speaking of all of those transfers, Hanley said with reference to all of them, they were made to bring the Crescent Lumber Company to time, and there was no consideration for them at all. He said all of the four lots in Ross Park Addition, the Lidgerwood house—he said that specifically so there could be no mistake about it, talking about them, mentioning them in the sale. I called Mr. Dan-

(Testimony of Charles P. Lund.)

son's attention there at that conference to the fact that Hanley had made those transfers; that was the first intimation that he had about it; Danson was Hanley's attorney at that time; I don't know how long he had been. Mr. Danson pretended there that he didn't know any transfers had been made; he expressed surprise, and in the language of the street, he "roasted" Hanley pretty strongly there for it.

Q. What business had he, as Hanley's attorney, to "roast" him, while we are on that subject, in the presence of Hanley's creditors and their attorneys?

A. I don't know about what business he had; he did it, that is the fact.

Q. Did Danson profess ignorance of the drawing of those instruments of conveyance, did he say they were not drawn in his office, or did he disown them entirely?

A. Why, when the fact was mentioned, he turned to Hanley and wanted to know why he did such a thing. It did not develop there what attorney or notary or conveyancer had drawn the instruments; the instruments were not before us at all; we were just discussing them in the abstract. Hanley was asked to explain how the conveying of that bulk of the property this way was going to bring the Crescent Lumber Company to time, and he didn't do it very satisfactorily. He did not attempt to explain it; it was just passed over in a sort of joking way. Somebody said, "Well, you succeeded in bringing them to time"; having reference to the attach-

(Testimony of Charles P. Lund.)

ment. They attached the property immediately after the filing of those complaints.

Q. Is it not a fact that the conveyance of the chattels was later in July, and the conveyance of the lots to James Hanley, the boy, was along the 2d of May?

A. The deed to the daughter is dated on the 3d of July, and I don't know when the chattel mortgage is dated. This deed is dated on the 2d of May, but they were filed for record in the Auditor's office at practically the same time, as I recollect it.

The COURT: Q. You mean the chattel mortgage, or bill of sale?

The WITNESS: The bill of sale; it is not a chattel mortgage, it is a bill of sale. There is absolutely no question at this time that Hanley declared that, in substance the conveyance of these lots to his son Jimmie was done simply to bring the Crescent Lumber Company to time, and without any consideration. It was a matter of very great surprise to me when he filed his petition in bankruptcy that these lots were not included.

Q. Now, Mr. Lund, in the negotiations looking to an agreement for security on this property, was not James M. Hanley's name, the name of the son inserted into the instrument, and did not the proposed mortgage run from James P. Hanley and wife to James M. Hanley, a single man?

A. No, I will tell you, as a matter of fact, Mr. Graves made a mistake. The paper that he prepared is

(Testimony of Charles P. Lund.)

John instead of "James." I don't know how that mistake was made; I am not responsible for it.

Q. Is it not a fact that the name of the boy was to be in that mortgage and it was understood that he had the title to those lots, and he was to join in the mortgage, when they knew that he had the record titles of the lots and the note was signed?

A. There was to be a note of six thousand dollars, payable on time, that note was to be executed by J. P. Hanley and his wife. This young man was not to sign the note. He had the record title to the property, and they were all to sign the mortgage, I suppose. It was not a condition for the settlement, that the Hanley boys would relinquish all claim for wages in the mill for the past year or so; the only suggestion about that was this, that those boys ought to be interested in their father working out of the tangle that he had gotten into, and they ought to be willing to postpone their claims to those of the creditors, particularly the bank that was willing to endeavor to assist him working it up, because they agreed to buy this two thousand dollar claim of Hutchings, and let them have a chattel mortgage on the lumber and they agreed to relinquish four car lots of it to the Crescent Lumber Company and take a thousand dollars back. Of course, the First State Bank of Deer Park was to have a second mortgage on all of this property as well. I had no knowledge or information of when the trouble or the pressure began from the Crescent Lumber Company against Mr. Hanley, except what I gained from Mr. Hanley himself and his talk

(Testimony of Charles P. Lund.)

here. I have no way of forming any idea as to when they would indicate the pressure began, because he did not testify anything that I recollect. I remember very distinctly that he stated they were not living up to their contract, and I am very clear he said they had returned some of his drafts. No, I did not act as Mr. Hanley's attorney at any stage of those negotiations, any more than I felt—I was not acting for him, was not to be paid anything by him, never considered that I——

Q. Did he not, after he and Mr. Danson fell out, did he not bring to you all of his papers in this matter and you had them for some time, and you advised him and handled the matter for him?

A. No, he had agreed two or three times on something that was to be done, and then he backed out. When Mr. Danson quit, he quit because he would not live up to his agreement. That was why Danson pulled out. I think it was Danson who pulled out, instead of Hanley.

Q. What is the fact about Hanley bringing his papers to you and you acting for him?

A. Why, when the matter had all been agreed, it was my understanding that I would see that the papers were fixed up according to the agreement that had been made; I was not acting for him, however; he may have brought some papers down there and left them. I don't know that I ever had his papers in my possession.

Q. For whom, now, and for whose benefit did you undertake to see that the papers were executed according to the understanding?

(Testimony of James M. Hanley.)

A. I was particularly interested in the State Bank; I happened to be well acquainted with the principal stockholders; they were clients of mine, and I had a little stock in the bank myself. As a matter of fact, I did not, I never did act as Mr. Hanley's attorney in the matter, never was employed by him. If he left any papers there with me, it was not with me as his attorney; it was either for safe keeping, or something else. I can't say how long I held his papers; I can't say that I had any; I don't believe I did. I don't think I did advise him what to do; if I did, it was purely gratuitous; I never got a fee for it and never expected any.

Witness excused.

Thereupon plaintiff rested.

Trial Resumed—January 5, 1912, 10 a. m.

JAMES M. HANLEY, the defendant, sworn on his own behalf, testified:

DIRECT EXAMINATION.

I am the defendant in this action. My name is James M. Hanley.

Q. When did you first begin to talk with your father, James P. Hanley, about purchasing the lots in question in this case?

Mr. BIRDSEYE: I think that is immaterial, if the Court please.

The COURT: One of the circumstances, I presume. You may proceed.

Plaintiff excepts and exception allowed.

A. Before he bought that property, he took me over there and showed it to me before ever he bought those

(Testimony of James M. Hanley.)

lots, and told me that it looked like a pretty good investment, and talked it over, but I did not bother him about it; did not do anything with it. Then later on, in the spring of 1908, when they started the lumber yard there, I was going to take an interest in it, was going to incorporate it, and I came down here for the purpose of going through with it, and then this partner, Joe P. Kelly, backed down; he would not incorporate; he wanted to have a company. In the spring of 1908 I was living at Northport, and then this last transaction in 1910. I talked with my father off and on from the spring of 1908, different times, until I took the deed for these lots, about buying the property; I was figuring on starting a woodyard there; I had always worked in the mill in the summer time, hardly having anything to do in the winter time in the mill, and I thought I would get the property and run a woodyard in the winter time.

Q. What was the fact about your saving up the money you had received from your grandmother, to buy these lots?

A. Well, I had the money; I was not saving it for that particular purpose, but when I decided I wanted them, I had that money available, that is, the money I put into them. I paid my father fifteen hundred dollars for the lots. The payment was made in cash, in gold and bills and paper money. I got that money from my mother—I got it from my grandmother, and she gave it to my mother to keep until I was of age, and when I was of age she turned it over to me. I became of age at Northport, at the time I was twenty years old.

(Testimony of James M. Hanley.)

My present age is twenty-four, the 7th of November. I received the deed for these lots on the 3d of May. That was the deed in question from my father and mother. I received it at Northport. After I got the deed I kept it until I went north, this summer, and I had a lot of my stuff and baggage was stolen up there, and I lost everything I had.

Q. What did you do in the way of recording that deed?

A. Well, I was busy up there at the time, working on the boat, and I did not get down; I thought maybe I would be coming down any time and have it recorded, and besides there was a payment on one of the lots that was not quite finished, a small amount, and I thought I would wait until that was paid up, and have it recorded, and then when this trouble came up, in July, I thought the best thing I could do was to get them on record right away, have them sent down. I had delayed until that time. When I took this deed and paid the money on the 2d of November, 1910, my father's financial condition looked all right to us; we always thought it was going along all right. I had not, up to that time, heard of any business trouble, or financial trouble on his part. It was not until after the Crescent Lumber Company started this action, and all of the creditors got scared and started pressing their claims, along in July, that was the first time we thought there was financial difficulties. It was about the latter part of July when the Crescent Lumber Company filed their attachment,

(Testimony of James M. Hanley.)

I forgot the exact date. So far as I know, nobody was pressing my father for payment prior to that time.

Q. What was the condition of his business and his plant?

Mr. LUND: This witness has not shown himself to have any knowledge about it at all.

Mr. BIRDSEYE: Q. Where were you living at that time?

The WITNESS: At Northport, with my folks. I was working on the boat for my father. That boat was being used in towing logs to the mill from up the river. I was working at the mill up the river and down all the time at home, pretty near every night I stayed at home. I took part of my meals at camp and at home. I saw my father every day. He used to talk about his business. I had general knowledge as I saw things of the general condition of the business. There was nothing occurred up to that time to give me an intimation that there was financial trouble; we always figured we were going to make good, planned on a good cut that summer; had a new boiler installed, so we had lots of power; the mill was running, and we figured we was going to get along all right, right up to the time the Crescent Lumber Company filed this attachment; planning on a big cut that summer. My purpose and intention in buying these lots from my father, I kind of wanted the property, and then he did not have such an awful lot of ready cash, and I told him that if he wanted to sell them, I would buy them, I had the money. I never sus-

(Testimony of James M. Hanley.)

pected or had any hint or intimation that that might interfere with or delay his creditors.

Mr. LUND: I object to that; that don't make any difference.

The COURT: Counsel are entitled to make up the record for another court here. I would suggest, however, I am convinced that the condition of Mr. Hanley was not such on the 3d day of May, 1910, that he could give property away; of course, if he sold it, he had a perfect right to sell it, and the only question in the case, in my mind, is as to whether or not there was a consideration given for this property. But you can make up your own record to suit yourselves.

The WITNESS: I was present in court yesterday afternoon and heard the testimony of Mr. Kelly, Mr. Olson, Mr. Danson, Mr. Kizer and Mr. Lund.

Q. What is the fact about your having been present at any of those conferences or conversations, either in the office of Mr. Lund, or Mr. Danson, or Mr. Will Graves, on any of those conferences, any of those testified to?

A. I positively was not in Spokane from about the 7th of July until the latter part of August; I was in Spokane the Fourth of July and went back to Northport the 7th and never came back to Spokane again until about the 28th or 29th of August, 1910. I certainly could not have been at any of those conferences. I was engaged at Northport during that time, running the boat; we had the wheel out of the boat; was repairing it at that time, that is, part of the time; other times I

(Testimony of James M. Hanley.)

was around there waiting; I had a telegram from my brother when these conferences were going on, to send those books on, they wanted to fix things up. I went up to the man who was in charge of the books and got the books from him and expressed them down to him, took him over to fix things up. In any of those conferences, or elsewhere, I never heard my father say that he deeded this property to me to bring the Crescent Lumber Company to time. I never heard him say, there or elsewhere, that he received no pay or consideration for this property. The way the five dollars consideration came to be mentioned in the deed when I paid fifteen hundred dollars, was just this way; if I happened to have a party to sell that same time, as a general rule I did not want the man, if I had a chance to sell it for more money or something, if the amount was not stipulated in the deed, why it did not show up, was all. I was raised with my grandmother; I stayed with her; I presume, as I can remember, as far back as I can remember, and she always had money; she used to have her money buried at one time in her garden out in our onion patch. When I was a small boy six or seven years old, I remember she gave me a dime one day and I went out and buried it in the garden; I thought maybe it would grow, when I was a small boy, and she always told me she would leave me something for taking care of her. I always took care of her, and stayed with her until she died; and at various times I seen her have money. I never seen her have the full amount she gave me; she never let me know; she kept it all of the time after I

(Testimony of James M. Hanley.)

grew up. While we were living at Deer Park my grandmother lived in a small house out behind, adjoining the other, a small distance away, one hundred and fifty feet or so. That is the building referred to by the plaintiff's witnesses as a chicken coop, but it was not no chicken coop. It was nice and comfortable; we had it fixed up, and stayed in it during the winter time, and had it papered, and it was fixed up pretty comfortably; nothing fancy or anything like that. It was papered with building paper; it was floored good; had a fire in it. The size of that structure was about sixteen by twenty. It had windows and doors in it. It was a comfortable place to live in. I stayed there myself all the time she was there, and my brother stayed with me, also.

Q. What is the fact as to the old lady, the latter years of her life, having been eccentric or peculiar?

A. Well, she was a kind of a peculiar old lady, as everybody used to say; even the Owen boys used to always make fun of her, and talked about her being a queer old lady, and she was getting old and childish and feeble; lots of times she would get mad at me for building a fire or something in the house, she would not like it, and she took chronic spells, and she would get over it again all right in a short time; she would just be as good as ever. I know from observation about grandmother carrying money on her person; she used to carry money, some of it in a sack; she used to have a string around her neck and carried it in sacks down here (illustrating).

(Testimony of James M. Hanley.)

Q. Who supported the old lady and paid her bills during the latter years of her life

A. Well, she supported herself.

Q. Jimmie, were you advised of any talk during these settlements, about you giving a mortgage on these lots, and giving up your lien claim, to help your father out?

Mr. LUND: Advised by whom?

Mr. BIRDSEYE: Was any such subject broached to you?

A. Yes, sir.

Mr. LUND: I object to that.

The COURT: He has answered the question, "Yes."

The WITNESS: I told my father when they came down here to fix up the agreement after this attachment was filed, that if I could help him out in any way, by giving a mortgage on the property, I would do it; I wanted to see the business go on, it was to my interest, so I told him that any agreement that he could fix up about giving a mortgage on the property, I would give it; I would help him out. I was not here at the time, I don't know whether any proposition of that kind was talked between my father and his creditors.

The COURT: I don't think this is material, except insofar as it is rebuttal of the conversations testified to by the witnesses yesterday.

Mr. BIRDSEYE: That is the idea, and I don't care to go any further.

The COURT: He has testified he was not there at all.

(Testimony of James M. Hanley.)

CROSS-EXAMINATION.

The WITNESS: The mill shut down immediately on that attachment being levied, and the property, all of it, was in the possession of the sheriff of Stevens County, under a keeper. I did not do anything in connection with that property while the sheriff was in charge. I don't know exactly now how long the sheriff was in charge. That attachment was levied about the 24th of July; from that time until they fixed it by agreement to ship out the lumber, it was in possession of the keeper under the sheriff of Stevens County; I don't know the date, I don't remember whether it was the 11th of August. Between the 24th of July and the 11th of August, I absolutely did nothing up there. I did not come down to Spokane when my brother and father did.

Q. Is it not a fact that you and your brother John were in my office on numerous occasions, together, when your father was not there, that you came up there looking for him?

A. I never was in your (Mr. Lund's) office at all, never at any time.

I was probably fifteen or sixteen years old, somewhere around there, when my grandmother died, in 1904, I think. At the time of her death, I first learned that money had been left to me. Mother had it. It was not shown to me. Mother stated that she had some money for me. She did tell me how much it was. She said it was twenty-five hundred dollars. I was living out there at the mill at that time at Deer Park.

(Testimony of James M. Hanley.)

From the time I was fifteen years old until I was twenty-one years of age, I may have talked about it once in a while, just asked her if it was all right, or something like that, or if she had it, I don't remember. I don't know as a matter of fact that I never did have any talk with her about it at any time. It is pretty hard to remember just when I did have any talk with her about it; that is a long time ago. I never saw the money or any part of it. I did not know where it was kept; I never bothered about where it was kept. The money was turned over to me when I was twenty-one. I was at Northport at that time. My mother had the money. It was delivered to me in the house where we lived then. It was handed over to me in gold and paper. My mother counted it out. I counted it. I don't exactly remember how much gold there was now. I don't know how much paper there was. The dimensions of the money was in twenties, tens and fives and bills; twenties, tens and fives in gold, and twenties, tens and fives in paper. I don't know how much of either. After I got the money I put it in a buckskin bag and put it in a fruit jar and sealed the lid up and buried it in an old stove down in the basement. Nobody knew that I had the money there. I certainly did not tell anybody where it was.

Q. Now, did you ever make any investment of any kind of any of that money, or put it anywhere, after you became twenty-one years of age?

A. I did; I invested fifteen hundred dollars of it in this property.

(Testimony of James M. Hanley.)

Q. I mean before that; you claim to have put fifteen hundred dollars into this property. Did you ever do anything with it, from the time you were twenty-one until you claim to have paid this fifteen hundred dollars?

A. Yes, I did; I used to take small amounts of it, and spend it once in a while. I spent it for different things; I had a launch up there that cost me quite a lot of money; I used to buy gasoline, and different expenses around. Spent money here in town. I would take money out of there as I wanted it. I probably spent one hundred and fifty dollars out of it. I never counted it; never counted it from the time I put it in there until I took it out. I never counted it over to see if it was all there; it did not look as though anybody had ever bothered it. My birthday was November 7th, 1908, when I was of age. For nearly two years that money lay there in that stove. I never counted it to see if it was all there; it looked as though it was all there. I never counted the whole works over. When I took this money, I took it at different times, in small sums. At different times, I took money out; I don't remember exactly how many times; it would be pretty hard to remember that. I generally took gold out. I talked a good many times about buying this property, as I say. I was thinking of going in partnership with my father and somebody else, running a lumber yard over here. That was after I became of age. I took out all of that other money that I had in that old stove in the ashes at the time I brought this fifteen hundred dollars here. I took all the money out, yes. I paid over fifteen hun-

(Testimony of James M. Hanley.)

dred dollars; I put the other money back into the stove. I kept it there until I came down here last fall. The money was always in this same place, while I was in Northport, for nearly two years.

Q. Now, is it not a fact, Mr. Hanley, that you people moved three different times while you were up at Northport?

A. Well, they lived in that small house there for the largest part of the time we were there.

Q. Answer my question; didn't they move and change their place of residence there three different times?

A. They did; yes, sir.

Q. And all of this time you left the money in that stove?

A. Yes, sir; I did not get the money until they moved in that last house. I disremember when they moved to that last house, but it was very shortly after we moved there. After we moved up there permanently we did not live in the mud house very long; it was the best one we could get.

Q. You know, as a matter of fact, you had not been living in that house at the time your father filed this petition in bankruptcy, don't you?

A. I think we lived there longer than that; I do not know when we moved in there; I do not know about the time we went in there. I say the reason why the consideration named in this deed was such as it was, was because I did not care to have the consideration

(Testimony of James M. Hanley.)

known. I first talked about making this deed shortly before the transaction, the deed to the house.

Q. Was anything said about how the deed was to be made?

A. Do you mean in regard to whether the lots would be put in there?

Q. Yes.

A. Yes, sir. It was discussed. I would not have put them in there, but for the reason stated awhile ago. It was not stated just what should be put in.

Q. Now, as a matter of fact, your father and mother happened to be down at Colville, and they had that deed made, and you didn't know anything about it?

A. No, sir; it was talked over before they went down; my father was called to the jury, and had to go down there to get off; he had business to attend to, and he was going down to get excused, and that is when he had it made out.

Q. He had the deed made out very soon, and you didn't think it was going to be made out, did you?

A. I certainly did. I certainly did have that deed in my possession. I don't remember whether my father sent the deed down here to the County Auditor for record, or whether I did; we was busy at the time.

Q. You know that deed was recorded at his request, and he mailed it down here with a letter asking that it be recorded, did he?

A. He probably did. He did not have it in his possession all of the time. I turned it over to him at the time I had it sent down here; we was in a hurry; I was

(Testimony of John Zilka.)

working, and the morning before I went to the mill I got the deed and gave it to him. I said, "Send it down to Spokane and we will have it recorded." I had to go to the mill and get to work; I used to stay home nights. As a matter of fact, it was sent down by my father.

Q. He wrote a letter down to the Auditor, mailing the deed, asking that the deed be recorded, along about the 21st of July?

A. Somewhere about there. The deed had not been in the office there in a little safe all of that time; it was at home; I had it in my trunk at home. The deed was lost this summer in my baggage, the bank book and checks, and stuff I had in there was lost, too. As a matter of fact the deed was written by my father in his handwriting; that is, the blanks were filled in by him. I couldn't say whether the handwriting outside of that of my father was that of the notary public, Mr. Saxe. I know the body of the deed was in my father's handwriting.

Witness excused.

JOHN ZILKA, sworn on behalf of the defendant, testified:

DIRECT EXAMINATION.

The WITNESS: My name is John Zilka. From about the 24th day of July, 1910, for the next two weeks, I was at Northport, Washington. I was put in charge of the plant by the sheriff, of Mr. Hanley's mill plant, by the sheriff of Stevens County. I was put there with reference to the levy of the attachment of the Crescent Lumber Company the latter part of July. The sheriff put me

(Testimony of John Zilka.)

in just about as soon as he made the attachment. I was about three weeks, from three to four weeks, in charge of the property continuously from that time. I was acquainted with Jim Hanley, this young man, at that time. During that three or four weeks while I was up there, he was there continuously; he was not right around the mill all the time, but what time he was not, he was in Northport.

Q. What is the fact about your having seen him in the town of Northport every day during the time you were in charge there?

A. In fact, I went to town pretty nearly every night, and every night I went to town I saw him on the street, or close to his home. Yes, I saw him every day about the mill during that time. I am willing to state that I saw him every day. He certainly was in Northport every day during that time.

CROSS-EXAMINATION.

The WITNESS: I went there in April, I could not just name the date this attachment was levied.

Q. April 10th. You were there continuously?

A. Yes, sir. I was not in charge of the books. I was running the mill. Millwright. At the time the sheriff made this levy I was put in charge as keeper, and it was my duty to be around the mill and look after the property. I was relieved the fore part of August, I should think the 15th or 18th, somewhere in there; I did not look up the date; I have got it in the time book. I was relieved by telegram; the sheriff notified me.

Q. How many times was John Hanley in Spokane

(Testimony of John W. Hanley.)

and back to Northport after the attachment was laid until you were relieved?

A. He went down the day after the attachment was served, and stayed down until he came up with a telegram.

Q. You say he stayed down here all of the time?

A. Yes, sir, until he came up with the telegram. I don't know, as a matter of fact, that he was at least twice back and forth between Northport and Spokane. I was over at the mill there all of the time. I came over to town in the evenings. I saw this young man every night when I came over, Jimmie. He was sometimes around the mill during the day; came up and talked to me. His father was up there some of the time. I could not swear whether John and his father were down in Spokane all of the time, but as near as I can understand, they were. I did not see them at Northport from the time I took charge as keeper, or rather the day after, until John came with this telegram from the sheriff.

Witness excused.

JOHN W. HANLEY, sworn on behalf of defendant, testified:

DIRECT EXAMINATION.

My name is John W. Hanley. I am a brother of the defendant James M. Hanley. I was present in court yesterday afternoon and heard all of the testimony. I was present at some of the conferences or conversations testified to by Mr. Kelly, Mr. Olson, Mr. Danson, Mr. Kizer and Mr. Lund. I was present from the time I

(Testimony of John W. Hanley.)

came down, the next day after the attachment was filed, and I stayed there until they thought they had things arranged, and they sent me back to ship out the lumber. I was present at all of those conferences, I think. They were held in different offices; some of them were in Mr. Lund's, and some in Graves' office, and in Danson's office, I think there were some in Danson's office. That is, I was present at all of the conferences testified to by those gentlemen mentioned on yesterday. My brother Jim, the defendant, was not there at any of them; he was at Northport. I did not hear at any of these conferences my father say, in substance, that this deed of these lots in question in this suit, to the defendant, was made for the purpose of bringing the Crescent Lumber Company to time. I never heard him make that assertion at all. I did not hear him say at any of those conferences, in substance, that he made that deed without receiving any pay for the property, or anything of that kind. I would have heard it if he had said anything of that kind, because I was right there, and as long as I was in town.

Q. How were you interested, if at all, in this matter?

A. Well, I had taken care of the books a whole lot, and as soon as I came down, I telegraphed the next day to my brother to have the books sent down, and the telegram was delayed some way, and the books did not get down until the day after, and I went down to the telegraph office. I had kept the books at the mill. I also had a substantial claim against my father. I don't know, at any of those conferences, that I heard my

(Testimony of John W. Hanley.)

father say anything about the transfer of the chattels and the horses and the outfit up there at Northport to one of us boys, or any explanation or discussion of that. I knew that my grandmother left Jim some money. I had heard her talk around the house there, and knew that she had some money.

Q. What do you know about her having had a considerable sum of money the last years of her life?

A. I knew that she had it; I never seen it; she kept it buried; she used to have a little bit in her trunk, that I know. When she was in the humor she used to give us a small amount. My brother and I lived with her in an old building, outside, back of our house; our house was kind of small, was not large, so Jim and I we lived with our folks; the house was papered and had a double floor in it, and there was a window and stove and everything in it; it was building paper that was used. I don't know just exactly the size of it; probably sixteen by twenty, or fourteen by eighteen, somewhere around there; I don't know exactly.

Q. As you heard family matters talked over, what was the understanding and talk, if anything, about grandma leaving something to Jimmie?

Mr. LUND: I object to that, as it would not have any bearing on this case.

Mr. BIRDSEYE: It tends to corroborate, and a matter of family talk.

The COURT: The question is very general; you may answer, however.

Plaintiff excepts and exception allowed.

(Testimony of John W. Hanley.)

The WITNESS: Jim always took care of grandmother, most of the time stayed with her; she was alone part of the time, you know; and built her fires and carried her wood, and looked after the chickens and everything, and while she was on her homestead, she had a cow there, and he used to help her with the cow and everything, and she always said when she would die she would certainly leave something to Jim. In the latter years of her life, grandmother was rather a peculiar old lady; everybody remarked about that; I would often talk with the boys around the school; they used to make fun of her, that is, in a way, you know, she was peculiar and kind of a queer old lady.

Q. What is the fact as to her being secretive and miserly?

A. Well, she was rather close and saving. I know that my mother turned this money over to Jim after grandma's death, when he was twenty-one, that is what she told him, and what he did with it, of course, I don't know; I know there was talk about his going to buy those lots over here, by my father. I don't know anything about the eventual payment of the money or the execution of the deed, and was not present when the money was paid. I was not present when the deed was delivered to Jim; I seen the deed afterwards; I know he had it up north with him this summer, with his bank book and things, checks and stuff, in the Northport bank, and his clothes, and everything was stolen in his suitcase, suitcase and all, up in Grand Forks. I saw this deed in Jimmie's possession after the 2d of May, 1910;

(Testimony of John W. Hanley.)

I know that he had it, know that he had it up until this summer, sometime this fall.

Q. What conversation did you ever hear between your father and James about his purchase of these lots from your father?

Mr. LUND: I object to that, if the Court please.

The COURT: Answer the question "yes" or "no."

Plaintiff excepts and exception allowed.

The WITNESS: Yes, sir. I heard such discussion several years ago; I don't remember how far back it was. My father wanted my brother and I to invest some money in these lots in there, I think before he bought in, said he thought it was a good place for a lumber yard, and that the property would increase, would be pretty good so I know James came down here and was going to form a corporation, and Kelly backed out, would not fix it that way. I don't remember just exactly when that was; it was along about the 2d of May, 1910, or shortly prior thereto, that I heard such conversation. It was that my father did not have any ready cash, and so Jim had this money, and he kind of wanted those lots, and told him if he would make some deal on them, he would take them and pay him his money. I heard the terms of the deed discussed, the amount to be paid was fifteen hundred dollars. Along about the 2d of May, 1910, my connection with the business was, I took care of the books all of the time.

Q. Do you know whether your father at that time received or put into the business any additional money?

(Testimony of John W. Hanley.)

A. Well, the books, I told you, was kept in an—they was not no up to date set of books; they will show that, as far as that is concerned. I know, of my own knowledge, that he paid some of this fifteen hundred dollars to his creditors connected with this business. He paid some to S. N. Turner; it was some three hundred and seventy-five dollars; somewhere around there, I think. I know where that money came from. I know I always checked up his bank books when they came back, and I know he never paid it with no check. It was not paid, then, in the ordinary course of payment, that payment had not been made before. The first idea or hint that I had that my father was in financial difficulty which might lead to his insolvency was not until this Crescent Lumber Company started trouble, started attaching everything, the latter part of July, 1910; there was nothing said about that, or anything that would make a man think that before that. The condition of my father's finances on the 2d of May, 1910, and my father's business, in brief, was, we were planning on going right ahead and installing a boiler to get the power and had one million and a half or two million feet of logs on the opposite bank, all cut, and hauled in, and had quite a stock of lumber there to saw up, and a good planing mill, and everything in good shape. I was keeping the books at that time and was familiar with the business. I had no reason to, and did not apprehend any financial embarrassment or trouble. We figured we could work it out, if we were let go ahead with it. The bank was not in any way pressing for payment of this

(Testimony of John W. Hanley.)

debt to the bank; they wrote a couple of letters, though, and said the drafts—the last, you know, along about July—said they could not cash any large checks, but up to that time there had not been no—. I know from the 2d of May we drew considerably from that time on, probably three or four thousand dollars; something like that. When the Crescent Lumber Company attached, I think we was loading on four cars, four or five, ready to ship to the Crescent Lumber Company; I would not be positive now of the number. Prior to that attachment, on the 24th of July, 1910, none of my father's other creditors had been pressing their claims. The condition of his business was, it was good.

CROSS-EXAMINATION.

The WITNESS: I was present, as I say, in your (Mr. Lund's) office, at the time when Mr. Danson and my father and Mr. Kizer and Mr. Moore were there, and Mr. Kelly and Mr. Olson. I knew all of those people. I never heard my father say on that occasion, in response to a question, that he had made these conveyances for the purpose of bringing the Crescent Lumber Company to terms. I was sitting right there in the room, so that I heard everything that was going on. No, I don't remember either that the question came up as to why he did not make some conveyances to me. It was not stated that I was married and had trouble with my wife, and were not living together, and that was the reason I could not take the title. I was married, yes.

(Testimony of John W. Hanley.)

Mr. BIRDSEYE: We object to prying into domestic difficulties with this witness.

The COURT: You can ask him about anything that transpired there; not about his domestic affairs outside of that.

Mr. BIRDSEYE: Was not this at the referee's hearing that you refer to now?

Mr. LUND: No.

The WITNESS: I say that no such talk or conversation occurred at that time, it certainly did not.

Q. Now, were you at that conference; when we adjourned we adjourned because we did not have a statement of the indebtedness, didn't we?

A. I remember something about the indebtedness.

Q. We could not do very much arriving at any conclusion until we knew exactly the status of what your father's indebtedness was?

A. I think Will Irish suggested to me, I think it was Will, I would not be positive, the cashier of the bank, to go to Northport and get the books.

Q. You promised to make and procure us a statement showing the exact amount of your father's indebtedness, didn't you?

A. No, I told you I could not get the exact amount when they had the books there, because they did not send all of them; some had accounts, and I told you I could not give you the exact amount, but would give it approximately; I knew all the indebtedness, excepting our wages. I don't believe I did give that assumption; I might have, but I would not be positive. I say that

(Testimony of E. C. Pratt.)

I saw Jim with this money; I saw it when it was given to him; I never knew what he done with it. I saw it handed over to him. I was in the house at the time. I never asked him where he kept it.

Q. From that time on, did you ever ask him a single question about what he had done with it?

A. I did not consider it was my business.

Q. Did he ever bring up the question from the time he was twenty-one years old, until this time?

A. We might have talked about what he was going to invest it in, or something like that. I never asked him where he kept it.

Q. Did you talk with him about it at all?

A. In that way, I might have, yes sir.

Q. You might have. Do you know whether you did or not?

A. Well, yes. He talked about investing this money in these lots, some of it. I never tried to borrow any money from him; did not have to. I never advised him to invest it in anything. I told him I thought it would be all right, though.

Q. Anything else?

A. No, sir. I did not advise him to put it in the bank and get a little interest on it.

Witness excused.

E. C. PRATT, sworn on behalf of defendant, testified:

DIRECT EXAMINATION.

The WITNESS: My name is E. C. Pratt; I have lived in Spokane County twenty-four years this coming

(Testimony of E. C. Pratt.)

spring, I believe. I now reside at Milan. I am a brother of former Mayor C. S. Pratt of this city. I lived near the Hanleys while they were living in the north part of the county; they were in the same section that I was on. I lived near to them, probably about twelve years, ten or twelve years, I would not say which. I knew Mr. Hanley's mother, Mrs. Julia Hanley, at that time. I met her at first, I think it was in 1888, in the spring, I think it was, in the last days of March. I knew her from that time on, not until her death; I knew her up to the time she went to Deer Park. I don't know how long it was before she died; I presume it was a couple of years, yes, maybe three. I would see her during that time, sometimes I would see her every day; I was logging, you know, across our land in going across from my land, I would come across hers. She was at my house at one time and she was hurt at one time, stayed at our house about a couple of weeks; had a limb broken or put out of joint.

Q. What was the fact as to her being a little eccentric or peculiar, secretive person?

A. She was a kind of peculiar old lady, you would meet her say today she would be very jolly and tomorrow she would meet you with a club. That was the peculiarity of it. I don't know very much about her being secretive or miserly. I know the old lady had some money. I know it because I saw her have money. She carried the money in—I don't know—it was a little pouch she carried about here (illustrating neck) and the string went around her neck. She carried it inside

(Testimony of E. C. Pratt.)

of her clothing. I have seen her have quite a little money. I don't know how much; I never counted it; I would think there was several hundred dollars, but I can't swear to the amount, because I did not count it; she had gold and silver, both. I don't know where she kept her money. I said to her one time, "You are careless, grandma, in carrying you money, so much around you." She said, "I don't carry all of my money; I have a place for it." She said she didn't carry all of it, she had a place for it. She did not say what that place was.

Q. Did you ever hear her say, or did you know of any particular amount of money that she had during that time?

A. She told me she had twenty-five hundred dollars. I think that was, if I remember right, in about 1891 or '92, somewhere along there; it might have been 1892. No, I don't know when she died; I have not got the date.

The COURT: 1904

The WITNESS: 1904, I could not say.

The old lady paid me an indebtedness that she owed me; she paid us for taking care of her at the time she was hurt; we went and got her and took her to our home and took care of her while Mr. Hanley was away in town here, him and his wife. That was the time she was on her homestead and I was on the next section. James P. Hanley, the Hanley's, were living at that time here in Spokane, I think it was, I don't know whether here or at the stone quarry, I am not sure

(Testimony of E. C. Pratt.)

which, but he was away from home, I know that. He never paid any of her bills to me that she owed me.

Q. Did you ever hear her say anything about leaving any money to her grandson, James Hanley?

A. The little fellow was always with her, that is, most always, and she said when she was through with this life that Jim was going to get her money. It was mostly believed she had some money; everybody believed she had money.

Q. "Everybody believed it." How do you know that?

A. Because neighbors that I talked with supposed she had money; they talked in that way. I don't know anything about the old lady selling her homestead up there. I only know about her selling a part of the timber; she sold some of it to the Chattaroy Lumber Company; I don't know whether she sold any considerable part; I don't think she sold a great part of it, not at that time.

Q. Would you know the value of her homestead at the time it was disposed of, both land and timber

Mr. LUND: If he knows what it was sold for that would be the best evidence.

Mr. BIRDSEYE: He lived there twenty-four years; he may know the value.

The COURT: If he knows what it sold for, that would be the best evidence.

The WITNESS: I do not know what it sold for. There is all kinds of prices on that kind of land in that locality; of course, it would have to be an estimate made

(Testimony of E. C. Pratt.)

of what the timber was worth, to get at the real value of it. I don't know how much timber there was on it at the time it was sold.

CROSS-EXAMINATION.

The WITNESS: As a matter of fact, I and Mr. Atwood located the Hanleys on their homesteads. Mrs. Hanley's homestead, they contested somebody else on there; they contested a man by the name of Cole; I think he had a pre-emption, either he or his wife; they never appeared at the trial; in those days both timber and land were very cheap; I could not say as it sold for along about fifty cents and a dollar an acre, but it was all homestead, you know; there were no sales made there at that time. At the time this land was sold by Mr. Hanley, I don't know when it was. I lived at that time at Milan. I moved away from there, about four miles, four or five. The time I had the talk with Mrs. Hanley about her money was at the time she was hurt; you know she was at our place about two or three weeks. I believe it was a couple of years after she located on the homestead. She had not made proof at that time, not at the time she was hurt.

Q. And at that time she told you that she had some money

A. She told me that several times, yes, that Jimmie was to get her money because he stayed with her. She did not say anything about Katherine going to get some of her money; did not say anything about Katherine.

Q. Didn't say in express words that she was going to leave it equally to those children?

(Testimony of E. C. Pratt.)

A. I never heard anything about Katherine at all. She said Jimmie was going to get her property. The last time I saw the old lady, if I remember right, was in 1901 or 1902. I was cutting hay for him at that time. She told me that Jimmie was to have her money; I was cutting hay for J. P. Hanley, I think that was, if I remember right, that was the last time I ever met her; they were living on the ranch, on Mrs. Hanley's forty.

Q. Did I understand that was in 1901?

A. Seems to me it was in 1900 or 1901. She did not at that time tell me how much she had.

REDIRECT EXAMINATION.

Q. You don't mean 1901, instead of 1891

A. The last time I saw her, I said I think was in 1901.

Q. About how many years ago, now. I understood you to give that at one time as 1901 and another time it was 1891, which was ten years prior?

A. I made two different remarks. The last time I saw Grandma Hanley was in 1901, about two years before her death; that was the last time I saw her.

The COURT: How much money did you say you saw?

A. Saw her have?

The COURT: Q. Yes.

A. I don't think I made the statement how much she had, but she had quite a lot of money, but I never stated how much, because I never counted it. I said it looked to be several hundred dollars.

(Testimony of E. C. Pratt.)

RECROSS-EXAMINATION.

The money that I saw her have was in this sack that she was carrying upon her neck.

REDIRECT EXAMINATION.

When I remonstrated with her for carrying so much money, she said, "I am not carrying all my money with me." She said she had a place for it.

RECROSS-EXAMINATION.

That was when she was living in her little shanty on the homestead; about the time that she proved up, some time about there. We located her there in November, I think, 1888.

Q. This would be probably along about 1890, then, something like fourteen years before her death?

A. 1892 or 1893, maybe, I was logging through there at the time; it must have been at least ten or twelve years before her death, somewhere along there.

REDIRECT EXAMINATION.

The WITNESS: Yes, her homestead, I think, was sold—yes, I know it was sold. I could not say when it was disposed of; there was considerable timber on it, on her homestead; she had a good claim, but I can't give you any idea when the home claim was disposed of.

Q. But it was after this time that you saw her have the money, and saw her have several hundred dollars?

A. No, it was before she sold it. I saw that money before she sold it. She was a woman that lived as well as other people; she did not throw her money away; she was not foolish. She had a couple of cows at one

(Testimony of Katherine Hanley.)

time and she had chickens and lived, I suppose, as people live in the country.

Witness excused.

KATHERINE HANLEY, recalled on behalf of defendant, testified:

DIRECT EXAMINATION.

The WITNESS: I was sworn yesterday. From the time the Crescent Lumber Company attached my husband's property on the 24th of July, 1910, and for the next two or three months, I lived in the town of Northport, in the state of Washington. I could not tell exactly how long I stayed there and lived there with my family after that attachment; I think I came down, I was here, I won't say for sure, whether it was a week or two weeks, the last of July. I could not exactly tell you how long before my husband went into bankruptcy on the 25th or 26th of August, 1910, he moved the family to Spokane; a few days before that.

Q. Then you must have stayed up there at Northport from the time of the attachment until somewhere the middle of August, you say?

Mr. LUND: That is argumentative; if she knows, let her state.

Mr. BIRDSEYE: I am trying to get her straightened out.

The WITNESS: Refreshing my recollection from those circumstances, it was the last of August that we moved to Spokane. We lived at Northport from the time of the attachment up to that time. My son James was living at home during that time.

(Testimony of Katherine Hanley.)

Q. Now, you may tell the Court whether or not you saw him daily in Northport, how much of that time.

A. He was there until he came down here, I think in September or the last of August, I won't say for sure, he stayed at home, he stayed at home and boarded right at home with me, and took his meals right there, from the time of the attachment until the time that I came to Spokane. He was in Spokane the Fourth of July and came back, if I am not mistaken, on the 7th, and he did not come in any more until the last of August or first of September, to my knowledge; he was right at home in Northport; I saw him there every day; there were a number of young folks out every evening for a week or so in his gasoline launch on the river.

CROSS-EXAMINATION.

I came down the latter part of August; I won't say just what day it was, because I don't remember. I don't remember whether I came down between the time the attachment was made in July, until I came down finally in August. I was not down here in conversation with my husband about making a mortgage on my home place, to my knowledge; I might have come down in August.

Q. You talked about that matter, and you refused to join with him in a mortgage on the property out there in Lidgerwood, didn't you?

A. Well, that was the last of August, to my knowledge, or July, the last of July. I was here at that time, the last of July, the latter part of July.

(Testimony of Katherine Hanley.)

Q. Or the first part of August, the first days of August.

A. Well, I disremember, but I came down in the middle of August. I was here for a number of days and then went back again.

Q. Were you not advised that in order to claim this property as exempt, as a homestead, it would be necessary for you——

A. (Interrupting) This was my own separate property, I put my own money into this property.

Q. You had deeded it to your daughter Katherine?

A. On account of this tax title lot, my friend told me in Northport, perhaps if I would deed this over to my daughter and have it transferred back, it would make it stronger for me. Some friends of mine up there told me that. That was not exactly why it was done. I did it because I thought, being a tax title, it would be stronger for me.

Q. It was done at your suggestion, was it?

Mr. BIRDSEYE: I object to this; it is not in this suit.

The COURT: I don't think it is material.

Plaintiff excepts and exception allowed.

Q. You came down, Mrs. Hanley, after Mr. Birdseye had charge of your affairs, and got a notary public to deed that property back to you?

A. Not to my knowledge; not that I remember of.

Q. And you were advised that you had to keep it as a homestead in order to claim it, and that is why you moved down?

(Testimony of James P. Hanley.)

A. I came to the office and asked Messrs. Broberg & Schuler to vacate a month before; the folks that were living in those houses, their house was not finished, they were building their own home and were going to move out as soon as they could, and they were delayed two weeks, later on account of their barn not being built.

REDIRECT EXAMINATION.

Q. Then you had been planning for a month to take possession of your place in Spokane?

A. Yes, sir; I wanted to come in and send my children to school.

I moved down to Spokane somewhere about the last of August. When the Crescent Lumber Company attached Mr. Hanley I was still living in Northport. During the time of my living at Northport, between the time of the attachment and my moving down here with my family in the middle of August I came down on a trip to Spokane and back once, to my knowledge; I think that was about two weeks or three weeks after the attachment; a week, to my knowledge. I was down here in Spokane at that time just a few days; I don't remember just how many days; I don't think it was over three days. During that time my son Jimmie was with my daughter. I left him at home and found him at home when I got back.

JAMES P. HANLEY, recalled in rebuttal, testified:

DIRECT EXAMINATION.

The WITNESS: I heard the testimony in this case yesterday afternoon, of Mr. Olson, Mr. Kelly, Mr.

(Testimony of James P. Hanley.)

Kizer, Mr. Danson and Mr. Lund. I was present at all of those conferences they referred to, but the last one, and the last conference they had Mr. Danson would not allow me or John W. Hanley to go to it. My son James was not present at any of those conferences; he was at Northport all the time. Of my family, Johnnie was at every one of those conferences, and myself, all but the last one.

Q. What is the fact about your having said at any of those conferences in substance or effect that you conveyed this property to your son for the purpose of bringing the Crescent Lumber Company to time?

A. No, sir, there was nothing of the kind ever said. The only thing that was said about the lots, they asked me the reason that I bought them in such a position, leaving the two vacant lots in the center. I told them it was on account of later on, if I wanted to buy the other lots, to make the lumber yard, that I could be sure of getting them. They said that was a "Yankee trick." Somebody made that remark. There was no discussion; I never said a word about conveying them to make the Crescent Lumber Company come to time. I never said at any of those conferences, in substance or effect, that I had conveyed those lots to my son James without any consideration or price paid. There was not anything of that sort up. There was nothing said in regard to conveying them without any consideration at all. They talked about the personal property, the horses. They asked about that, if it was conveyed without any consideration. I told them no, there was a

(Testimony of James P. Hanley.)

dollar paid both from Jim and from Turner. I never at any time or place, in substance or effect, said that I had deeded this property to Jimmie to bring the Crescent Lumber Company to time, or that I deeded it to him without consideration.

Q. Mr. Hanley, what is the fact about its being understood and talked in those conferences that your son had those lots, owned them, and had the title to them, and further——

Mr. LUND: I think that calls for a conversation at a particular time.

The COURT: There is only testimony given here to one conversation, a certain statement made.

Mr. BIRDSEYE: He talked about an agreement and proposed mortgage.

Q. What was said by anybody interested at those conferences about your son James joining in a mortgage on those lots, to enable you to go on with your business.

A. Well, in the conferences that were held when Mr. Danson was my attorney, he told me not to say a word. He said, "When we go to hold a conference, don't you open your mouth," he says, "I will do all of the talking." I told him, I says, "Jim is willing and John is willing to relinquish all claim to their wages until the debt is wiped out, and Jim will give a mortgage on the lots as security," I mean on those four lots in Northeast Addition to Ross Park, that he had, and I told Mr. Danson, I says, "I have no authority, and I can't get my wife to give security on her home," even at this last

(Testimony of James P. Hanley.)

conference that Mr. Danson had with Mr. Lund and those parties, he would not let me or my son John go over to the conference; he made us sit in his office, and he goes over and makes the deal with those people, and gives them a blanket mortgage on all of the property, including the homestead, and when he came back to the office and told me what he had done, I told him, I said, "Mr. Danson, you had no authority from me to do that, because I can't get her consent." Then he got mad and jumped up and said, "I won't have no more to do with the case." That is the circumstances of it right there; he never allowed us at the last conference at all; he wanted to fix the thing up with those people himself. He acted as my attorney no longer after that. Then I went to Post, Avery & Higgins, and told Mr. Post the circumstances——

The COURT: That has nothing to do with this case. You better answer the questions propounded to you.

The WITNESS: Mr. Post says to me, "Who is the bank's attorney?" I says, "Mr. Lund." He says, "Ain't the bank friendly to you?" I says, "Certainly." He said, "What is the matter with having Mr. Lund take care of your case with the bank " So the idea had never struck me before; so I said, "I think it will be all right." So I went over to Mr. Lund and turned over the papers to him, and asked him if he would act as my attorney in conjunction with the bank, and he kept the papers until he made out the statement. He made out some kind of a statement for all of us to sign, and to sign over a mortgage, give them a mortgage then

(Testimony of James P. Hanley.)

on everything. I was sick in the morning and just about ten minutes before train time he had to finish, and I did not have time to have read it over, and I took it to Northport, and after I read it over to the boys they refused to have anything more to do with it. I saw there was no chance; he wanted to get hold of everything, and get me to work up the balance of the logs, and turn me out naked. I could not say how long he had my papers; he had them until I refused—until I had to go into bankruptcy.

Q. What did Mr. Lund say, if anything, when you went to him with this request that he protect your interest in the matter?

A. He said it would be all right.

CROSS-EXAMINATION.

The WITNESS: I brought you all of the papers concerned in the Crescent Lumber Company attachment, and also the logs that the other people had attached up there, that injunction; they were the papers concerning our business with the Crescent Lumber Company. You (Mr. Lund) ought to know what kind of papers they were; you had them and looked them over.

Q. No, I am asking you; you ought to know; you said you delivered them. What were they?

A. I can't tell you exactly now. They were regarding the business and the transactions between me and the Crescent Lumber Company; that is the only papers that I should have there. I remember a summons and complaint, and an amount that was owed them, and all

(Testimony of James P. Hanley.)

of those details. I have reference now to some injunction suit that was brought by the lumber company up there, to prevent the moving of some logs from their land. You (Mr. Lund) had those papers also. I brought those papers there and left them; I brought them all over.

Q. You say that after we had that meeting up there at my (Mr. Lund's) office, when I mentioned to Mr. Danson the fact that you had made these conveyances, that you made no statement as to the reason why you had made them?

A. Made which conveyances?

Q. Those deeds and this bill of sale of the horses?

A. I don't know which conferences you are talking about.

Q. In my (Mr. Lund's) office.

A. We held two or three in your office.

Q. At the time that Mr. Danson was there with you, Mr. Kizer, Mr. Moore, Mr. Olson and Kelly; you remember of being there, don't you?

A. I was there several times.

Q. Do you remember my stating to Mr. Danson there, in open meeting, that you had made these transfers?

A. Why, everybody knew I had made the transfers.

Q. No, just pay attention to my question. You remember my saying to Mr. Danson there in open meeting that you had made these transfers?

A. No, sir, I do not remember your saying anything.

(Testimony of John W. Hanley.)

Q. And you did not state at that time that you had made these conveyances for the purpose of bringing the Crescent Lumber Company to terms?

A. Which conveyances are you talking about, or what conveyances are you talking about now?

Q. Did you make any such statement at any time?

A. Were you talking about the conveyances of the personal property, the horses. You recalled yesterday on the stand that you were.

Q. I wish you would answer my question, and then we will get along a good deal better.

A. I want to know what your question is.

Q. Did you make any statement about having made the transfer to bring the Crescent Lumber Company to time?

A. No, sir.

Q. Never used that language, in substance or effect?

A. No sir, not with reference to these lots.

Q. Did you in reference to anything else?

A. Might about the——

Q. Did you make the statement there in that meeting that you had made the transfer of that personal property for the purpose of bringing the Crescent Lumber Company to time?

A. Yes, sir; that was the personal property, not the lots. I made that statement, and that was in reference to the personal property.

JOHN W. HANLEY, recalled in rebuttal, testified:

(Testimony of John W. Hanley.)

DIRECT EXAMINATION.

The WITNESS: I was present with my father at the time that he went to Mr. Lund's office, that he has just testified to. My father was explaining to Mr. Lund, told him he thought they could fix it up all right in some way, and take care of the papers; he was taking care of them for the bank, and he thought that he could make some arrangement in some way, and also explained to him about the logs and stuff, that there was an injunction served on us at Northport.

Q. What is the fact about your father asking him to protect his interest in the matter and look after it?

A. He asked him and told him, and Mr. Lund thought it would be all right. I can't remember the exact words, but he told him he was acting attorney for the bank, and thought he could look after his interest, too. My father took all of the papers there, and left them there; he left them there until they fixed up this agreement, and he told them to leave out—my father would not sign no mortgage for our home, and he left them there until that time, until they fixed this agreement, with the home and everything else, and then he told them they could not do anything with it; he told them any other way, or any terms, or anything would be satisfactory outside of that.

CROSS-EXAMINATION.

Q. You knew that your father had made an agreement that they would execute those papers, and I (Mr. Lund) told him that after that agreement was made that I was in position, or would be, to represent him in

(Testimony of John W. Hanley.)

that injunction suit, if the thing was carried out; is not that a fact?

A. In the injunction suit, yes, and also in these other matters.

Q. We had already at that time come to an agreement; it was just a matter of concluding it, and you were to go up to Northport, weren't you, to ship those four cars of lumber?

A. The agreement had not been signed; he had not read it over.

Q. He had agreed to it orally down here, as to what should be done?

A. He had agreed orally, yes, but not to put the home in. So they went in and held a conference, and Mr. Danson told him not to stay in the office and came back and said, "I have got everything all fixed up," he says—when he mentioned about having the home in, he said especially, "I told you any arrangement outside of that would be all right; the boys are willing to release their claim until such time as it is paid out, and Jim will also give a mortgage on these lots, but my mother won't involve her home in the matter at all." So that Mr. Danson came back and said the home is——

Q. (Interrupting) He had already made an agreement to give a mortgage on these four lots?

A. He had already?

Q. Yes, sir; you say he agreed to that, did he?

A. He said he thought that he could get James to give a mortgage on the lots and release our wages, and everything would be put in excepting the home, my

(Testimony of John W. Hanley.)

mother would not sign up for her home. Mr. Danson goes over and has everything arranged and puts the home in and comes back, and my father says, "There is nothing doing; "she won't sign that that way; she refuses to sign that with her home put in." So Mr. Danson says, "I am through with it."

Witness excused.

Thereupon the parties closed their evidence and proceeded to argue the matter to the Court.

No. -----.

In the District Court of the United States for the Eastern District of Washington.

R. F. KNIGHT, TRUSTEE IN BANKRUPTCY OF
JAMES P. HANLEY, a Bankrupt,
Complainant,

vs.

JAMES M. HANLEY,

Defendant.

I, Frank H. Rudkin, Judge of the above entitled Court, hereby certify that the foregoing is a true and correct statement of all of the evidence in the above entitled cause taken in open Court, pursuant to oral stipulation of the parties, and the same, together with the exhibits introduced and received in evidence, is the evidence upon which the final judgment herein is based.

(Signed) FRANK H. RUDKIN,

Judge.

Endorsements: Record of testimony taken at trial
and Certificate of District Judge.

Filed August 2, 1912.

W. H. HARE, *Clerk.*

By F. C. NASH, *Deputy.*

DEFENDANT'S EXHIBIT "A."

Northport, Wash., March 16th, 10.

The following is a true statement of my financial condition as near as I can get it:

North Port Sawmill Building & Machinery--	25,000
Northport Planing Mill & Machinery-----	3,800
Part of Lots 1, 2, & 3S 34 & 40 Range 40 about 15 acres -----	5,000
½ interest in Steamer Columbia of Northport	2,5000
Cook house and bunk houses and barns at mill -----	800
2 million one hundred thousand feet of saw logs -----	14,700
Fourteen hundred thousand feet of lumber in pile, avg. 17 per M-----	23,800.
Deer Park Sawmill -----	2,300
9 head of horses av \$150 apiece-----	1,350
9 " " oxen \$100 " -----	900
6 logging trucks -----	450
5 sets harness -----	185
Cant hooks chains and logging rigging----	200
4 logging sleighs and 4 logging drays-----	260
Bank stock -----	100
Due from Bradford and Kennedy-----	3,610.25
Due from C. J. Sutton secured by Lein-----	108

due from Sale of Lot 13 B 127 Lidgerwood Park -----	600
lots 5, 7, 16 and 18 Block 7, NE Addition to Ross Park -----	2,000
Due from Stewart and Welsh R R Con- tractors -----	500
Cash in Bank -----	300
Lot 17 block 126 Lidgerwood Park Spokane, Katherine Hanley -----	4,000
Equity in 800,000 ft standing timber-----	1,200
	<hr/>
	\$93,663.25
Insurance on Lumber -----	19,000
Insurance on Dwelling Lot 17 blk 126 Lidger- wood Pk. -----	3,400
Life Insurance -----	3,000
Alpication in for Life Insurance for-----	2,000
Insurance on Steam Boat Columbia-----	2,000
	<hr/>
	\$29,400

Liabilities

First State Bank of Deer Park, Washington about -----	24,000
Crescent Lumber of Kansas City Mo. about	11,000
McGowan Bros, of Spokane-----	100
Marshal Wells & Co. Spokane about-----	200
H. Peters 1219 First Ave about-----	100
Jensen King & Bird Spokane about-----	75
Washington Machinery and Supply Co, Spo- kane, open acct, about-----	575

Wash. Mach. Sup. Co. on note-----	600
Farmer's Co-operative Co. Northport-----	400

\$37,050

Endorsements: Defendant's Exhibit "A."

Filed Jan. 3rd, 1912.

W. H. HARE, *Clerk.*

By F. C. NASH, *Deputy.*

EXHIBIT -----

THIS INDENTURE, Made this second day of May, in the year of our Lord one thousand nineteen hundred and ten, between James P. Hanley and Katherine Hanley, his wife, the parties of the first part, and James M. Hanley, the party of the second part.

WITNESSETH: That the said parties of the first part for and in consideration of the sum of Five dollars lawful money of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, do hereby grant, bargain sell and convey unto the said party of the second part, his heirs, and assigns forever all lots, tract or parcel of land lying and being in the County of Spokane and State of Washington and described as follows, to wit: Lot 5, lot 7 and lot 16 and lot 18, block No. 7 N. E. Add. to Ross Park Spokane, Washington.

TO HAVE AND TO HOLD THE SAME together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining to the said party of the second part his heirs and assigns forever. And the said parties of the first part for their heirs, exec-

utors and administrators, do covenant with the said party of the second part his heirs and assigns that they are well seized in fee of the lands and premises aforesaid and have good right to sell and convey the same in manner and form aforesaid; that the same are free from all incumbrances.

And the above bargained and granted lands and premises in the quiet and peaceable possession of the said party of the second part his heirs and assigns, against all persons lawfully claiming or to claim the whole or any part thereof the said parties of the first part will warrant and defend.

IN TESTIMONY WHEREOF the said parties of the first part have hereunto set their hand and seal the day and year first above written.

JAMES P HANLEY (Seal)

KATHERINE HANLEY (Seal)

Signed, sealed and delivered

in the presence of

W. L. SAX.

STATE OF WASHINGTON,

County of Stevens—ss.

I, W. L. Sax, a Notary Public in and for said county and state do hereby certify that on this 2nd day of May A. D. 1910 personally appeared before me James P. Hanley and his wife, Katherine Hanley to me known to be the individuals described in and who executed the within instrument and acknowledged that they signed and sealed the same as their free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS my hand and official seal the day and year in this certificate first above written.

(Signed) W. L. SAX,

Notary Public, Residing at Colville, Wash.

W. L. Sax

Notary Public

State of Wash.

Feb 16, 1914

STATE OF WASHINGTON,

County of Spokane—ss.

I, R. W. Butler, County Auditor in and for the County of Spokane, State of Washington do hereby certify that the above and foregoing Warranty deed, numbered 289192, James P. Hanley and Katherine Hanley to James M. Hanley, filed in this office on July 18th A. D. 1910, at 50 minutes past twelve o'clock in the afternoon as appears of record in book 264 of deeds on page 604 thereof, records of this office..

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the City and County of Spokane this January 4th, 1912.

(Signed) R. W. BUTLER, *County Auditor.*

INDORSEMENTS.

Number 289192
WARRANTY DEED.

James P. Hanley et ux

to

James M. Hanley

STATE OF WASHINGTON,

County of Spokane—ss.

I hereby certify that the within instrument was filed for record in the office of the County Auditor of said County on the 18th day of July A. D. 1910 at 12 o'clock and 50 minutes P. M. at the request of J. P. Hanley and recorded on page 604 of book 264 of deeds.

R. W. BUTLER, *County Auditor.*

(Signed) By F. M. HEYWOOD, *Deputy.*

Recorded on July 21, 1910.

By JOHN H. PUGH, *Deputy.*

Mail Req.

Northport, Wash.

Endorsements: Exhibit -----

Filed January 3rd, 1912.

W. H. HARE, *Clerk.*

By F. C. NASH, *Deputy.*

EXHIBIT -----

*In the Superior Court of the State of Washington for
Spokane County.*

SUMMONS.

T. B. MOORE, and THEO. C. SHERWOOD, Co-
partners doing business as Crescent Lumber Com-
pany,

Plaintiffs,

vs.

JAMES P. HANLEY and KATHERINE HANLEY,
Husband and Wife,

Defendants.

THE STATE OF WASHINGTON to James P.
Hanley and Katherine Hanley, husband and wife, the
above named defendants:

You, and each of you, are hereby summoned to ap-
pear within twenty days after the service of this sum-
mons upon you, exclusive of the day of service, and de-
fend the above entitled action in the court aforesaid, and
answer the complaint of plaintiffs and serve a copy of
your answer on the persons whose names are subscribed
hereto, at Spokane, Spokane County, Washington, and
in case of your failure so to do, judgment will be ren-
dered against you according to the demands of the
complaint, which will be filed with the clerk of the said
court, a copy of which is herewith served upon you.

Dated this 21st day of July, 1910.

(Signed) GRAVES, KIZER AND GRAVES,

Attorneys for Plaintiffs.

P. O. Address, 400 Fernwell Building, Spokane, Wash.

*In the Superior Court of the State of Washington for
Spokane County.*

COMPLAINT.

T. B. MOORE, and THEO. C. SHERWOOD, Co-
partners doing business as the Crescent Lumber
Company,

Plaintiffs,

vs.

JAMES P. HANLEY and KATHERINE HANLEY,
Husband and Wife,

Defendants.

Plaintiffs allege:

I.

Plaintiffs T. B. Moore and Theo. C. Sherwood are and at all times herein mentioned they were co-partners doing business under the firm name and style of Crescent Lumber Company and engaged in the business of selling lumber at wholesale in Kansas City, Jackson County, Missouri.

II.

Defendants James P. Hanley and Katherine Hanley now are and at all times herein mentioned they were husband and wife, and at all times herein mentioned the said defendant James P. Hanley was and he now is engaged in the manufacture of lumber in the State of Washington.

III.

On the 16th day of March, 1909, the plaintiffs and the defendants made and entered into a certain written contract, a true and correct copy of which said contract is as follows, to-wit:

CONTRACT.

WHEREAS, The Crescent Lumber Company, a co-partnership composed of T. B. Moore and Theo. C. Sherwood, engaged in the business of selling lumber at wholesale in Kansas City, Jackson County, Missouri, under the firm name of Crescent Lumber Company, hereinafter to be called the Crescent Lumber Company, and J. P. Hanley, engaged in the manufacture of lumber at Northport, Washington (Stevens County), being desirous of making arrangements for the conduct of their business that will be of mutual interest and benefit, do hereby each in consideration of the promises of the other herein contained, mutually agree each with the other as follows:

FIRST: The Crescent Lumber Company agrees to lease to J. P. Hanley, his worked lumber sheds, rough dry sheds and lumber yard as now located at Northport, Washington, including the foundations for the lumber piles, paying for the same at the rate of One Hundred Dollars (\$100.00) per annum.

SECOND: The Crescent Lumber Company will purchase of J. P. Hanley at Seven Dollars (\$7.00) per thousand feet in the rough and in pile six hundred thousand (600,000) feet of rough lumber per month from March 1, 1909, and pay for same on or before the 10th of the following month for this amount if cut the previous month, and if this amount is not cut, will pay for whatever is cut, it being understood that when payments for lumber are made the Crescent Lumber Company shall receive bill of sale for amount purchased, based on a certified stock sheet to be furnished them.

Said purchase to amount to not more than two and one-half (2,500,000) feet in sheds and on the yard at any one time, unless otherwise agreed to meet some situation not now obvious.

THIRD: The Crescent Company will pay to J. P. Hanley for taking from the rough piles and rough sheds and manufacturing it in their planing mill and loading it upon cars, on order of and as directed by the Crescent Company, all that they shall receive from sales for said lumber, over and above the cost of same per thousand feet after deducting the lease money, cost of insurance, taxes, interest on the money invested in the stock of lumber at eight per cent (8%) per annum, computed each time a shipping settlement is made, two per cent (2%) trade discount and ten per cent (10%) on the net amount received for the lumber; that is, 10% on the amount received for the lumber less the freight charges, claim for shortages, under grades, interest and trade discount heretofore mentioned, etc. Said payments shall be as follows: Eighty per cent (80%) of estimated net amount less cost of rough lumber and full settlement to be made on the 10th of each month for the preceding month's shipments, for all shipments on which freight bills shall have been received from customer. By "estimated net" is meant the amount arrived at after deducting freight charges from invoice price to customer, using weights established by the lumber associations for the different classes of lumber. It being understood that any loss through bad accounts or customers' failure to pay for lumber purchased shall not be chargeable to cost of lumber or affect the amount

paid J. P. Hanley for milling, it also being understood monthly settlements to J. P. Hanley shall be certified by the Crescent Company, if desired by J. P. Hanley.

FOURTH: The Crescent Lumber Company is to keep J. P. Hanley supplied with orders for lumber to be manufactured in order that they may keep their planing mill running as steadily as possible. As soon as rough lumber is in condition for shipment and continue so to do at best market prices obtainable, whenever there is lumber suitable for shipping and market prices are satisfactory.

FIFTH: J. P. Hanley shall use care and discretion in manufacturing lumber by seeing that it is properly manufactured; that the same be graded properly when shipping, stacked, or put in sheds as the case may be and cared for as to damage as little as possible, and see that the lumber is properly counted and graded when shipped.

SIXTH: J. P. Hanley is to see that the orders sent by the Crescent Lumber Company are as promptly and properly filled as possible and that he will see that the stock of lumber is sawn so as to be generally called for by the trade.

SEVENTH: J. P. Hanley is to manufacture and ship the aforesaid lumber according to the grading rules of the Mississippi Valley Lumbermen's Association, and ship the same in the name of the Crescent Lumber Company to the parties to whom the Crescent Company shall order it shipped, sending list of lumber shipped in each car, together with a bill of lading for car, promptly to the Crescent Company's office at Kan-

sas City, Missouri, and agrees to manufacture no lumber from rough lumber owned by the Crescent Company for any other person or firm during the term of this agreement (except it be for local consumption in the town of Northport) and then on account of the Crescent Company, such sales to be reported monthly to the Crescent Company and settlement made for manufacturing same upon the same basis as lumber shipped out upon written orders of the Crescent Company.

EIGHTH: J. P. Hanley is to see that all lumber is so piled that it can be insured in standard insurance companies according to first class underwriters' requirements; also that a clear space of two hundred (200) feet shall be kept between the planing mill and sheds, and one hundred (100) feet between the rough dry shed and the piles of rough lumber, if required by the insurance company.

NINTH: J. P. Hanley agrees to furnish to the Crescent Company a receipted pay roll showing their labor is paid in full each month, and if lumber is manufactured for logs purchased aside from those cut from J. P. Hanley's own timber holdings, a statement showing that there are also paid for each month is to be made.

TENTH: This contract shall continue in force for the period of one year; at the termination of this contract J. P. Hanley is to purchase all of the lumber that the Crescent Company may have on hand in the sheds and on the yard at its original cost per thousand feet, on an inventory taken jointly, and in case the amount on hand at that time, plus the shipments already made,

shall not amount to the amount of lumber purchased in the rough J. P. Hanley is to make the amount good, and on the other hand should the amount of lumber on hand at the termination of this contract, plus the shipments, amount to more than the lumber purchased in the rough, J. P. Hanley is to have the benefit of any such overrun. In case J. P. Hanley should not have the money with which to make this purchase, he agrees to manufacture and load out all such lumber that may be on hand, for the Crescent Company under the terms of this contract, as soon as possible the Crescent Company to discontinue purchasing at the time of the notice of termination of the contract.

Executed in duplicate this sixth day of March, 1909.

CRESCENT LUMBER COMPANY.

By THEO. C. SHERWOOD.

By T. B. MOORE.

JAMES P. HANLEY.

KATHERINE HANLEY.

IV.

Thereafter, in pursuance of the terms of said contract the plaintiffs paid to the defendants the annual rental due to them for the lease of the lumber sheds, rough dry sheds, and lumber yards of the defendants, as specified in the first paragraph of said agreement. Defendant James P. Hanley, for the purpose of cheating and defrauding these plaintiffs, falsely and fraudulently represented to these plaintiffs that he had sawed lumber for the plaintiffs in accordance with the terms of said contract and that said lumber was in pile upon the ground leased to these plaintiffs and that there was due

to the defendants, by virtue of said contract, divers sums of money, and the said James P. Hanley, in pursuance of said fraudulent design, furnished to these plaintiffs certified stock sheets as provided in said contract of such lumber, and demanded of these plaintiffs payment for such lumber in pursuance of the terms of said contract. Thereupon, replying upon the truth of the representations made by the said James P. Hanley, these plaintiffs paid to the defendant from time to time the whole amount of said certified stock sheets at the rates provided for in said contract.

V.

Thereafter from time to time the plaintiffs furnished the defendant James P. Hanley with instructions to ship said lumber to the order of the plaintiffs and to divers destinations, but the said defendant James P. Hanley, upon divers pretexts, delayed said shipments, making certain shipments and postponing others, and finally wholly failed, neglected and refused to make any other or further shipments of lumber. These plaintiffs now learn that the said James P. Hanley fraudulently disregarded his obligations to furnish to these plaintiffs in accordance with said contract, the lumber paid for by the plaintiffs and sold said lumber which the plaintiffs had purchased to other persons, and fraudulently converted the proceeds thereof to his own use, and the said James P. Hanley has now wholly sold and disposed of said lumber, and is wholly unable to comply with said contract, and wholly refuses to furnish to the plaintiffs the lumber which plaintiffs have purchased, and likewise refused to return to the plaintiffs

the money so paid to the defendants upon said contract.

VI

Plaintiffs have kept and observed each and all of the stipulations and covenants contained in said agreement.

VII.

Prior to May 1, 1910, plaintiffs had paid to the defendant James P. Hanley the sum of nine thousand two hundred eighty dollars and eighty-four cents (\$9280.84) over and above all credits and offsets to which the defendants were or are entitled by virtue of any lumber furnished by the defendants, and by virtue of the fraudulent conduct of the defendant James P. Hanley and the breaches of the contract recited, plaintiffs have been damaged in the sum of nine thousand two hundred eighty dollars and eighty-four cents (\$9280.84), together with interest thereon at the rate of eight per cent per annum from May 1st, 1910.

WHEREFORE, Plaintiffs demand judgment of the defendants and each of them in the sum of nine thousand two hundred eighty dollars and eighty-four cents (\$9280.94), with interest thereon at the rate of eight per cent per annum from May 1, 1910, until paid, together with their costs of suit.

(Signed) GRAVES, KIZER AND GRAVES,

Attorneys for Plaintiff.

STATE OF WASHINGTON,

County of Spokane—ss.

T. B. Moore, being first duly sworn, upon his oath states: That he is one of the plaintiffs in the within entitled action; that he has read the foregoing complaint,

knows the contents thereof, and believes the same to be true.

(Signed) T. B. MOORE.

Subscribed and sworn to before me this 21st day of July, 1910.

(Signed) B. H. KIZER,

Notary Public in and for the State of Washington, Residing at Spokane, Washington.

Endorsements: Complaint.

Filed July 22, 1910, at 3:45 o'clock p. m.

C. F. ATKINSON, *Clerk.*

*In the Superior Court of the State of Washington for
Spokane County.*

AFFIDAVIT FOR ATTACHMENT.

T. B. MOORE, and THEO. C. SHERWOOD, Co-partners doing business as Crescent Lumber Company,

Plaintiffs,

vs.

JAMES P. HANLEY and KATHERINE HANLEY,
Husband and Wife,

Defendants.

STATE OF WASHINGTON,
County of Spokane—ss.

T. B. Moore, being first duly sworn, on his oath says: I am the T. B. Moore who is one of the plaintiffs in the above entitled action, and makes this affidavit on behalf of plaintiffs to authorize the issuance of a writ of attachment in this case. The defendants are indebted to the plaintiffs in the sum of \$9280.84 over

and above all just credits and offsets, and this attachment is not sought, and this action is not prosecuted to hinder, delay or defraud any creditors of the defendant.

The defendant has assigned, secreted and disposed of certain of his property and is about to assign, secrete and dispose of the remainder of his property with the intent to delay and defraud his creditors.

The defendants have been guilty of a fraud in contracting the debt and incurring the obligation for which this action is brought. The indebtedness for which this suit is brought is past due.

(Signed) T. B. MOORE.

Subscribed and sworn to before me this 22nd day of July, 1910.

(Signed) B. H. KIZER,

Notary Public in and for the State of Washington, Residing at Spokane, Wash.

Endorsements: Affidavit of Attachment.

Filed July 22d, 1910, at 3:45 o'clock p. m.

C. E. ATKINSON, *Clerk.*

*In the Superior Court of the State of Washington for
Spokane County.*

BOND FOR ATTACHMENT.

T. B. MOORE and THEO. C. SHERWOOD, Co-
partners doing business as Crescent Lumber Com-
pany,

Plaintiffs,

vs.

JAMES P. HANLEY and KATHERINE HANLEY,
Husband and Wife,

Defendants.

KNOW ALL MEN BY THESE PRESENTS,
that we, T. B. Moore and Theo. C. Sherwood, co-part-
ners doing business as the Crescent Lumber Company,
plaintiffs in the above entitled matter, as principals, and
A. F. McClaine and Mose Oppenheimer, as sureties, are
held and firmly bound unto James P. Hanley and Kath-
erine Hanley, husband and wife, defendants in the
above entitled action, in the sum of twenty thousand
(\$20,000.00) dollars, for the payment of which sum
well and truly to be made, we bind ourselves, and each
of us, our, and each of our heirs, and personal repre-
sentatives firmly by these presents.

The condition of the foregoing obligation is such that
whereas an action entitled as above has been commenced
in the above entitled court by the above named plain-
tiffs, which said action is for the recovery of the sum
of nine thousand two hundred and eighty dollars and
eighty-four (\$9280.84) from the above named de-
fendants, and in which said action plaintiffs seek a writ
of attachment against the property of the defendants.

NOW THEREFORE if the said plaintiffs shall prosecute said action without delay and shall pay all costs that may be adjudged to the defendants, and the damages which they may sustain by reason of said attachment, not exceeding the sum of twenty thousand (\$20,000.00) Dollars, should said attachment be wrongfully or maliciously sued out, this obligation to be null and void, otherwise to remain in full force and effect.

Dated this 22d day of July, 1910.

(Signed) CRESCENT LUMBER CO.

By T. B. Moore,

Principals.

(Signed) A. F. McCLAINÉ,

MOSE OPPENHEIMER,

Sureties.

STATE OF WASHINGTON,

County of Spokane—ss.

A. F. McClaine and Mose Oppenheimer, the sureties whose names are subscribed to the above bond, being severally sworn on oath say, each for himself, I am a resident of the State of Washington, and am not an attorney-at-law, clerk of the Superior Court, or other officer of said court, and that I am worth the sum of twenty thousand (\$20,000.00) Dollars over and above all debts and liabilities, and exclusive of property exempt from execution.

(Signed) A. F. McCLAINÉ.

(Signed) MOSE OPPENHEIMER.

Subscribed and sworn to before me this 22d day of July, 1910.

(Signed) W. J. MATHEWS,
*Notary Public in and for the State of Washington, Re-
siding at Spokane, Wash.*

The foregoing bond this day approved by me.
July 22d, 1910.

(Signed) C. E. ATKINSON, *Clerk.*
Filed July 22d, 1910, at 3:45 o'clock p. m.
C. E. ATKINSON, *Clerk.*

*In the Superior Court of the State of Washington for
Spokane County.*

T. B. MOORE and THEO. C. SHERWOOD, Co-
partners doing business as Crescent Lumber Com-
pany,

Plaintiffs,

vs.

JAMES P. HANLEY and KATHERINE HANLEY,
Husband and Wife,

Defendants.

WRIT OF ATTACHMENT.

*The State of Washington to the Sheriff of Spokane
County, Greetings:*

In the name of the State of Washington you are hereby required to forthwith seize and take into your possession and safely keep the property of the above named defendants James P. Hanley and Katherine Hanley, in your county, not exempt from execution, sufficient to satisfy the plaintiff's claim amounting to Ninety-two hundred and eighty and 84-100 (\$9280.84)

Dollars, together with their costs and expenses, and of this weit make legal service and due return.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the said Court, this 22d day of July, 1910.

(Seal)

C. E. ATKINSON, *Clerk.*

GRAVES, KIZER AND GRAVES,

Attorneys for Plaintiffs.

STATE OF WASHINGTON,

County of Spokane—ss.

I, F. K. Pugh, Sheriff of Spokane County, do hereby certify that, under and by virtue of the within Writ of Attachment, I did on the 22d day of July, 1910, levy upon and attach all the right, title and interest of the within named defendants James P. Hanley and Katherine Hanley, his wife, in and to the following described real property, to-wit:

Lot thirteen (13) in block one hundred and twenty-seven (127) and lot seventeen (17) in block one hundred and twenty-six (126) all in Lidgerwood Park Addition to the City of Spokane, lots five (5) seven (7), sixteen (16) and eighteen (18) in block seven (7) of the Northeast addition to Ross Park, an addition to the City of Spokane, and lots thirty-seven (37) and thirty-eight (38) and the east half of lot thirty-six (36) in block eight (8) of Second Addition to West Riverside Addition to the City of Spokane.

Dated this 22d day of July, 1910.

(Signed) F. K. PUGH, *Sheriff.*

By W. L. JACKSON, Deputy.

Sheriff's fees.

Copies
Mileage
Total

Endorsements: Attachment.

Filed July 22d, 1910, at 4:15 o'clock p. m.

C. E. ATKINSON, *Clerk.*

W. W. JESSUP, *Deputy.*

In the Superior Court.

STATE OF WASHINGTON,

County of Spokane—ss.

I, Glen B. Derbyshire, Clerk of the Superior Court, within and for said County of Spokane, State of Washington, do hereby certify that I have compared the foregoing copies of the record of the summons complaint, affidavit for attachment, bond for attachment, and writ of attachment, in the case of T. B. Moore and Theo. C. Sherwood, co-partners doing business as Crescent Lumber Company, Plaintiffs, vs. James P. Hanley and Katherine Hanley, husband and wife, Defendants, with the original records thereof now remaining in this office and have found the same to be correct transcripts therefrom and of the whole of such original records. And I further certify that said exemplification would be received in evidence in all the courts of the State of Washington.

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed the seal of said court, at Spokane, in said County and State, this 2d day of January, 1912.

GLEN B. DERBYSHIRE,
Clerk of Said Superior Court.

In the Superior Court.

THE STATE OF WASHINGTON,

County of Spokane—ss.

I, J. Stanley Webster, one of the Judges of the Superior Court within and for the said County of Spokane, State of Washington, do certify that the said Court is a Court of Record, and that Glen B. Derbyshire, whose signature is affixed to the foregoing certificate, is the Clerk of the said Superior Court, and that said certificate is attested in due form of law, that the aforesaid signature of said Clerk is genuine and that the seal thereto affixed is the seal of the said Superior Court.

WITNESS my hand at Spokane, in said County and State, this 2d day of January, 1912.

J. STANLEY WEBSTER,

Judge of Superior Court.

In the Superior Court.

STATE OF WASHINGTON,

County of Spokane—ss.

I, Glen B. Derbyshire, Clerk of the Superior Court within and for the County of Spokane, State of Washington, do hereby certify that the Hon. J. Stanley Webster, whose name is subscribed to the preceding certificate, is one of the Judges of the Superior Court within and for the County of Spokane aforesaid, duly elected, sworn and qualified, and that the signature of said Judge to said certificate is genuine.

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed the seal of the said Court at Spo-

kane, in said County and State, this 2d day of January, 1912.

GLEN B. DERBYSHIRE,
Clerk of Said Superior Court.

Endorsements: Defendant's Exhibit "C."

Filed Jan. 3d, 1912.

W. H. HARE, *Clerk.*

By F. C. NASH, *Deputy.*

No. 964.

In the District Court of the United States for the Eastern District of Washington, Northern Division.

R. F. KNIGHT, TRUSTEE IN BANKRUPTCY OF
THE ESTATE OF JAMES P. HANLEY, a
Bankrupt,

Complainant,

vs.

JAMES M. HANLEY,

Defendant.

OPINION.

Charles P. Lund, for Complainant.

L. J. Birdseye, for Defendant.

RUDKIN, District Judge. This is a bill in equity filed by a trustee in bankruptcy under subdivision of section seventy of the Bankruptcy Act, to set aside a conveyance from the bankrupt to his son, executed some few months prior to the adjudication.

The rules of law governing cases of this kind are so well understood that it is deemed unnecessary to refer to them or to cite authorities in their support. Fraud is never presumed. Such a charge must be established

by clear and satisfactory proof. Circumstances which merely arouse suspicion are not enough. The testimony on the part of the defendant tends to show that he paid \$1500 in cash for the property in controversy, which was not disproportionate to its fair market value. The fact of this payment was testified to positively and unequivocally by the grantee and by the grantors, his father and mother. The same witnesses accounted for the purchase money paid as follows: The paternal grandmother of the grantee was possessed of about \$5000 at the time of her death, which occurred some four years prior to the date of the conveyance. This money was kept buried or concealed in or about her little home for a number of years. A few days prior to her death she delivered the money to the defendant's mother with instructions to keep it as she herself had kept it, until the defendant should attain his majority, and that upon his attaining his majority she should pay over to him the sum of \$2500. The mother kept the money as directed and paid over to the defendant at his majority, which occurred about eighteen months prior to the conveyance, the sum of \$2500. The defendant kept the money concealed in a tin can in a stove in the basement from that time until he paid over to his father the sum of \$1500 at the time of the execution of the deed. Other testimony was offered tending to show that the grandmother was possessed of money and kept it buried or concealed in the manner indicated. As against this the complainant relies on the inherent improbability of the truth of this testimony upon certain admissions made by the defendant and the bankrupt; upon the fact that

the deed was not recorded for some months, and then at the instance of the bankrupt; and upon other circumstances of minor importance. That the defendant himself made admission against his interest is not established by the proof. The only witness who testified to such admissions was a hostile one, and in view of the denial by the defendant I do not think the fact is established. That admissions of some kind were made by the bankrupt himself some months after the conveyance tending to show that the conveyance was without consideration, does not admit of doubt. But whether these admissions related to this or other conveyances, and whether the defendant was present at the time the admissions were so made, admits of question. It is admitted that three transfers were made by the bankrupt at different times, and it is possible that the admissions attributed to him referred to a later transfer, as claimed. There is testimony tending to show that the defendant himself was present when these admissions were made, but his own positive testimony and that of his mother is to the contrary. The testimony of the defendant as to his presence is either true or wilfully false, while the other witnesses who testified to his presence may well be mistaken. I admit that the story told by the defendant and his witnesses seems improbable, and the account given by the bankrupt of the disposition made of this large sum of money is far from satisfactory; but mere suspicion will not support a decree for the complainant, and I do not feel that I have that abiding conviction of the truth of the charges of fraud contained in the bill that a court should entertain before

setting aside a conveyance on the ground of fraud. The bill is therefore dismissed.

Endorsements: Opinion.

Filed in the U. S. District Court, Eastern District of Washington, Jan. 23d, 1912.

W. H. HARE, *Clerk.*

In the District Court of the United States for the Eastern District of Washington, Northern Division.

DECREE.

R. F. KNIGHT, TRUSTEE IN BANKRUPTCY OF
JAMES P. HANLEY, a Bankrupt,

Complainant,

vs.

JAMES M. HANLEY,

Defendant.

This cause came regularly on for trial before the Court the 4th day of January, 1912, upon the pleadings of the respective parties hereto and the issues thereby made and joined herein; the complainant appeared by his attorney herein, Charles P. Lund, Esq.; the defendant appeared in person and by his attorney herein, L. J. Birdseye, Esq.; and the cause proceeded regularly to trial. The complainant's witnesses were duly sworn and examined, and the defendant and his witnesses were duly sworn and examined in support of the respective pleadings and upon the issues herein; the Court duly heard all the evidence introduced and proof made and the argument of their said attorneys in behalf

of the respective parties hereunto upon the evidence and the law applicable thereto; and thereupon the Court took the cause and its decision thereof under advisement.

And now, on this 8th day of February, 1912, the Court having heretofore, after due deliberation and consideration, and being fully advised in the premises, rendered and made its opinion and decision in writing, herein, that the complainant's bill of complaint in this cause be dismissed, and stating the reasons and grounds therefor;

NOW, THEREFORE, IT IS BY THE COURT CONSIDERED, ADJUDGED AND DECREED: That the complainant's said bill of complaint in this cause be and the same hereby is dismissed, and that this cause be and it hereby is dismissed out of court, that the complainant have and recover naught in this action; and that the defendant have and recover of and from the complainant the defendant's costs and disbursements in this cause, to be taxed according to law.

Done in open court this 8th day of February, 1912.

(Signed) FRANK H. RUDKIN,
Judge of Above Named Court.

Endorsements: Decree.

Filed in the U. S. District Court, Eastern District of Washington, February 8th, 1912.

WM. H. HARE, *Clerk.*

By F. C. NASH.

O. K. as to form.

(Signed) CHAS. P. LUND.

IN EQUITY.

In the District Court of the United States for the Eastern District of Washington.

R. F. KNIGHT, TRUSTEE IN BANKRUPTCY OF
JAMES P. HANLEY,

Complainant,

vs.

JAMES M. HANLEY,

Defendant.

ASSIGNMENT OF ERRORS.

And now, on the 5th day of August, 1912, came the complainant, by Charles P. Lund, his solicitor, and says that the decree in said cause is erroneous and against the just rights of said plaintiff, for the following reasons:

First: Because the evidence shows that the deed of conveyance from James P. Hanley, the bankrupt, and his wife, Katherine Hanley, of Lots Five (5), Six (6), and Sixteen (16) and Eighteen (18) in Block Seven (7), of Northeast Addition to Ross Park, an addition to Spokane, Spokane County, Washington, dated May 2d, 1910, and afterwards on the 18th day of July, 1910, filed for record in the Auditor's Office of Spokane County, Washington, and recorded in Book 264 at Page 604, was so executed without any present consideration, or any consideration whatsoever, from defendant, and at a time when the grantors were insolvent and was so made for the purpose and with the intent of the parties thereto to hinder, delay and de-

fraud the creditors of said grantors, and the assets in the hands of complainant as trustee in bankruptcy of James P. Hanley, bankrupt, or known to the said trustee, are insufficient to pay the claims of creditors which have been proved and allowed against said bankrupt, and with the real estate covered by said conveyance will be insufficient to pay the claims of the creditors of said bankrupt which have been so proved and allowed.

(Signed) CHARLES P. LUND,
Solicitor for Complainant.

Endorsements: Assignment of Errors.

Filed Aug. 5, 1912.

W. H. HARE, Clerk.

By F. C. NASH, *Deputy.*

No. 964.

IN EQUITY.

In the District Court of the United States for the Eastern District of Washington.

R. F. KNIGHT, TRUSTEE IN BANKRUPTCY OF
JAMES P. HANLEY, a Bankrupt,
Complainant,

vs.

JAMES M. HANLEY,

Defendant.

PETITION FOR APPEAL.

To the Honorable Frank H. Rudkin, District Judge:

The above named complainant feeling himself aggrieved by the decree made and entered in this cause on the 8th day of February, A. D. 1912, does hereby appeal from

said decree to the Circuit Court of Appeals for the Ninth Circuit, for the reasons specified in the Assignment of Errors, which is filed herewith, and prays that his appeal be allowed and that citation issue as provided by law, and that a transcript of the record, proceedings and papers upon which said decree was based, duly authenticated, may be sent to the United States Circuit Court of Appeals, sitting at San Francisco.

And your petitioner further prays that the proper order touching the security to be required of him to perfect his appeal be made.

(Signed) CHARLES P. LUND,
Solicitor for Complainant.

The above petition granted and appeal allowed, without bond, as provided by law.

(Signed) FRANK H. RUDKIN,
Judge.

Endorsements: Petition for appeal and order allowing appeal.

Filed August 5, 1912.

W. H. HARE, *Clerk.*

By S. M. RUSSELL, Deputy.

*In the District Court of the United States in and for the
Eastern District of Washington.*

No. -----

IN EQUITY.

R. F. KNIGHT, TRUSTEE IN BANKRUPTCY OF
JAMES P. HANLEY, a Bankrupt,

Complainant,

vs.

JAMES M. HANLEY,

Defendant.

CITATION. (LODGED COPY).

UNITED STATES OF AMERICA TO JAMES M.
HANLEY, GREETING:

You are hereby notified that in a certain case in equity in the United States District Court, for the Eastern District of Washington, wherein R. F. Knight, Trustee in Bankruptcy of James P. Hanley, a Bankrupt, is complainant, and James M. Hanley is defendant, an appeal has been allowed the complaint therein to the Circuit Court of Appeals for the Ninth Circuit.

You are hereby cited and admonished to be and appear in said court at San Francisco, 30 days after the date of this citation, to show cause, if any there be, why the order and decree appealed from should not be corrected and speedy justice done the parties in that behalf.

Witness the Hon. Frank H. Rudkin, Judge of the United States District Court for the Eastern District of Washington, this 26th day of August, 1912.

(Signed) FRANK H. RUDKIN,

(Seal)

United States District Judge.

Endorsements:

Service of a copy of the within Citation admitted this 26th day of August, 1912.

(Signed) L. J. BIRDSEYE,
Attorney for Defendant.

Citation (Lodged Copy).

Filed August 26, 1912.

W. H. HARE, *Clerk.*

By FRANK C. NASH, *Deputy.*

No. 964.

In the District Court of the United States, Eastern District of Washington, Northern Division.

R. F. KNIGHT, TRUSTEE IN BANKRUPTCY OF
JAMES P. HANLEY, a Bankrupt,
Complainant,

vs.

JAMES M. HANLEY,

Defendant.

To the Clerk:

PRAECIPE FOR TRANSCRIPT OF RECORD.

You will please prepare and certify to the Circuit Court of Appeals the following papers in the above-entitled action, to-wit:

Complaint, Answer, Replication, Opinion of Honorable Frank H. Rudkin, District Judge, Decree, Record of Testimony taken at the trial and certified by the District Judge, Petition for Appeal and Order Allowing Same, Assignment of Errors, and Citation; also the following Exhibits: Exhibit "A," Filed January 3,

1912; Exhibit -----, filed January 3, 1912, and Exhibit -----, filed January 3, 1912, and praecipe for transcript of the record.

(Signed) CHARLES P. LUND,
Solicitor for Complainant.

Endorsements: Praecipe for Transcript of the Record.

Filed August 10, 1912.

W. H. HARE, *Clerk.*

By S. M. RUSSELL, Deputy.

In the District Court of the United States, Eastern District of Washington, Northern Division.

No. 964.

R. F. KNIGHT, Trustee in Bankruptcy of the Estate
of James P. Hanley, Bankrupt,
Complainant,

vs.

JAMES M. HANLEY,

Defendant.

CLERK'S CERTIFICATE TO TRANSCRIPT OF
THE RECORD.

United States of America,
Eastern District of Washington—ss.

I, W. H. HARE, Clerk of the District Court of the United States for the Eastern District of Washington, do hereby certify the foregoing printed pages, numbered from one to 209 inclusive, to be a full, true, correct and complete copy of so much of the record, testimony, papers and other proceedings as called for by the appellant in his praecipe as the same appears on page 208

of this printed record, as the same remain of record and on file in the office of the Clerk of said District Court, and that the same constitute the record on appeal from the order, judgment and decree of the District Court of the United States for the Eastern District of Washington, Northern Division, to the Circuit Court of Appeals for the Ninth Judicial Circuit, San Francisco, California.

I further certify that I hereto attach and herewith transmit the Original Citation issued in this cause.

I further certify that the cost of preparing, certifying and printing the foregoing transcript is the sum of \$250.40, and that the said sum has been paid to me by Charles P. Lund, Solicitor for the Complainant and Appellant.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court at Spokane, in said District, this 28th day of August, 1912.

(Seal)

(Signed) W. H. HARE,

Clerk.